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Select committee on the Report of the Ontario
committee on taxation.

Report; taxation in Ontario: a program
for reform. Sept. 1968

Chairman: John H. White.



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TAXATION IN ONTARIO

A PROGRAM FOR REFORM



ONTARIO

**THE REPORT OF
THE SELECT COMMITTEE OF THE LEGISLATURE
ON
THE REPORT OF THE ONTARIO COMMITTEE
ON TAXATION**



ONTARIO

TAXATION IN ONTARIO: A PROGRAM FOR REFORM

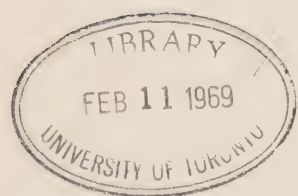
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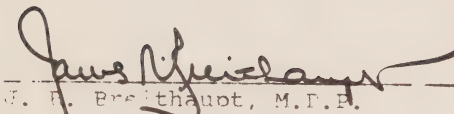
REPORT OF THE ONTARIO COMMITTEE ON TAXATION

September 16, 1968

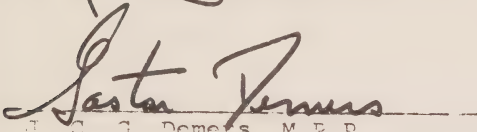


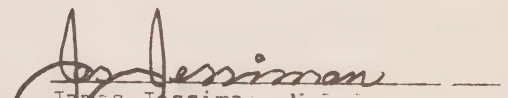
The Select Committee of the Ontario Legislature on the
Report of the Ontario Committee on Taxation respectfully submits
its Report.

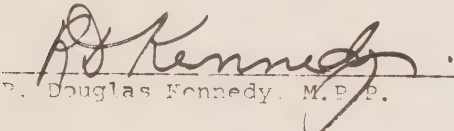

John H. White, M.P.P., Chairman

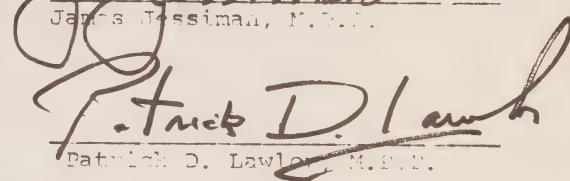

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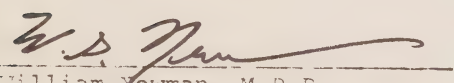

James Jessiman, M.P.P.



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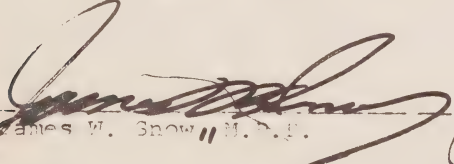

Patrick D. Lawlor, M.P.P.


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James W. Snow, M.P.P.


James B. Trotter, M.P.P.

TABLE OF CONTENTS

Letter of Transmittal	ii
Appointment and Terms of Reference	v
Members of the Select Committee	vi
Preface	vii
Introduction	1
Preamble	3
Chapter 8: Fiscal Effects of the Recommendations: Prescription for Future Needs	10
Chapter 9: Introduction to Volume II	27
Chapters 11, 12, 13 and 14: Taxes on Property	30
Chapter 11: Taxes on Property: Basic Issues	34
Chapter 12: Taxes on Property: Exemptions	55
Chapter 13: Taxes on Property: Assessment	77
Chapter 14: Taxes on Property: Collections	83
Chapter 15: Special Capital Levies and Developer Charges	88
Chapter 16: The Poll Tax	95
Chapter 17: Local Non-Tax Revenues	96
Chapter 18: Local Revenue and Property Assessment Appeals	105
Chapter 20: School Finance	112
Chapter 21: Provincial Grants to Municipalities	119
Chapter 22: Municipal Debt	132

Chapter 23:	Reconciling Structure with Finance (Regional Government)	143
Chapter 24:	Introduction to Volume III	151
Chapter 25:	Provincial Revenue Legislation: Administration and Appeals	154
Chapter 26:	The Personal Income Tax	168
Chapter 27:	The Corporations Tax	177
Chapter 28:	The Taxation of Wealth: Death and Gift Taxes	183
Chapter 29:	The Retail Sales Tax	224
Chapter 30:	Motor Vehicle Revenues	243
Chapter 31:	Other Provincial Taxes	250
Chapter 32:	Revenue from Mines	255
Chapter 33:	Revenue from Forest Resources	272
Chapter 34:	Revenue from other Natural Resources	278
Chapter 35:	Revenue from Alcoholic Beverages	282
Chapter 36:	Provincial Government Enterprise	293
Chapter 37:	Other Non-Tax Revenues	296
Chapter 38:	Financing Hospital and Medical Care	298
Chapter 40:	Provincial Debt Policy to 1975	307
Appendix A:	Individuals and Organizations Who Appeared Before the Select Committee	309
Appendix B:	Individuals and Organizations Who Made Written Submissions Only to the Select Committee	311

APPOINTMENT AND TERMS OF REFERENCE

On motion by Mr. Robarts, seconded by Mr. Nixon,

ORDERED, That a Select Committee of this House be appointed to conduct an examination of the recommendations of the Report of the Ontario Committee on Taxation; To review briefs and submissions that have been made to the Government from municipalities, organizations and individuals with respect to the recommendations contained in that Report; To conduct hearings for the purpose of receiving further representations from municipalities, organizations and individuals, with respect to the recommendations contained in that Report; And to report not later than the seventeenth day of September, 1968.

And that the Select Committee shall consist of 13 members and shall have authority to sit during the interval between Sessions and have full power and authority to appoint or employ counsel and secretary and such other personnel as may be deemed advisable and to call for persons, papers and things and to examine witnesses under oath, and the Assembly doth command and compel attendances before the said Select Committee of such persons and the production of such papers and things as the Committee may deem necessary for any of its proceedings and deliberations, for which purpose the Honourable the Speaker may issue his warrant or warrants.

The membership of the Committee to be as follows:—

Mr. White (Chairman), Messrs. Breithaupt, Deacon, Demers, Jessiman, Kennedy, Lawlor, Lawrence (Carleton East), Meen, Newman (Ontario South), Pilkey, Snow, Trotter.

SELECT COMMITTEE OF THE LEGISLATURE
ON THE
REPORT OF THE ONTARIO COMMITTEE ON TAXATION

MEMBERS OF THE SELECT COMMITTEE

John H. White, M.P.P.	London South
J. R. Breithaupt, M.P.P.	Kitchener
D. M. Deacon, M.P.P.	York Centre
J. C. G. Demers, M.P.P.	Nickel Belt
James Jessiman, M.P.P.	Fort William
R. Douglas Kennedy, M.P.P.	Peel South
Patrick D. Lawlor, M.P.P.	Lakeshore
A. B. R. Lawrence, M.P.P.	Carleton East
Arthur K. Meen, M.P.P.	York East
William Newman, M.P.P.	Ontario South
Clifford G. Pilkey, M.P.P.	Oshawa
James W. Snow, M.P.P.	Halton East
James B. Trotter, M.P.P.	Parkdale

STAFF AND CONSULTANTS

John Allan, Ph.D.	Economic Consultant
Glen Cronkwright, C.A.	Consulting Tax Accountant
Jon Harkness, M.A.	Assistant Economic Consultant
Robert Macaulay, Q.C.	Senior Counsel
Bohdan Onyschuk, B.A., LL.B.	Counsel
Peter Venton, M.A.	Executive Secretary
Miss Bonnie Gray	File Clerk
Mrs. Laurie Laming	Secretary
Mrs. Margith McIlveen	Assistant Secretary
Ronald Miller, B. A.	Research Clerk

PREFACE

1. The Select Committee of the Legislature on the Report of the Ontario Committee on Taxation was established by the Parliament of Ontario on the motion of the Prime Minister, seconded by the Leader of the Opposition, May 31, 1968.

2. Committee meetings were commenced June 4 and were concluded September 6, 1968. During these 14 weeks your Committee received 110 different delegations, some of which appeared more than once, and studied a total of 318 briefs dealing with the recommendations of the Ontario Committee on Taxation and related matters. These submissions, which are listed in Appendices A and B of this Report, were extremely helpful in our deliberations and we extend our gratitude to all of those who participated in their preparation and presentation.

3. Your Committee benefitted from the assistance of Mr. Robert Macaulay, Q.C., Senior Counsel, whose indefatigable efforts were a continuous source of strength to its Members and Staff. He was ably assisted by Mr. Bohdan S. Onyschuk, Committee Counsel, who prepared many sections of this Report and who researched many legal matters.

4. We had the courageous and progressive advice of Professor John Allan, Economic Consultant, who had the considerable help of Mr. Jon Harkness, Assistant Economic Consultant.

5. Mr. Glen Cronkwright, Consulting Tax Accountant, brought his encyclopaedic knowledge and excellent judgment to our public hearings and private deliberations. The importance of his contribution to this Report cannot be overestimated.

6. Your Committee's staff was headed by Mr. Peter Venton, Executive Secretary, who worked almost without pause to arrange the multitude of organizational matters and who attended to all duties and demands in a way that could not be excelled. He had the untiring support of Mrs. Laurie Laming, Mrs. Margith McIlveen, Miss Bonnie Gray, and Mr. Ronald Miller. Mr. Donald Southcott prepared the press releases. To each of these men and women your Committee extends its sincerest thanks.

7. The Chairman and Members of your Committee express their appreciation to the many other individuals, too numerous to name here, in various departments of the provincial government and its agencies, in municipalities across Ontario, and in private organizations, who provided valuable information and helpful comment. In particular we thank the Honourable J. C. McRuer, Commissioner of the Royal Commission Inquiring Into Civil Rights; Mr. Angus MacKay, Supervisor in the Assessment Branch of the Department of Municipal Affairs; Mr. J. A. Brodie, author of the Report of the Forestry Study Unit and Mr. J. W. Giles, Supervisor of the Timber Section of the Timber Branch of the Department of Lands and Forests. We are grateful to each of these men for giving us the benefit of their specialized knowledge and advice.

INTRODUCTION

1. The terms of reference given to us by the Legislature made it clear that this Select Committee Report was not intended to be primary research. It could more accurately be described as an evaluation or commentary on the Report of the Ontario Committee on Taxation, which has come to be known as the Smith Report. More specifically, it is a commentary on the 347 recommendations contained in that Report.

2. The Select Committee does recommend certain new taxation proposals, however, because in rejecting some of the recommendations in the original Report, we felt obliged to present the Legislature with alternatives. The experience of our legislative members and the specialized knowledge of our consultants have been combined to formulate a number of important departures from the presentation that was the subject of our assignment.

3. The Select Committee's proposals include a new approach to Retail Sales Tax collection and exemptions which may prove to be the forerunner to a broad system of negative income taxes in Ontario. They include as well a bold solution to the financial problems of Ontario's Mining Municipalities and this may be the harbinger of Municipal Equalization Grants for less prosperous communities across Ontario.

4. The consequences of these and other recommendations will be lower property taxes, which are unquestionably regressive, with greater reliance on provincial taxes which are more broadly based and more progressive through the whole range of income and wealth.

5. The result of the implementation of these recommendations would be a substantial shift in the burden of taxation from the poor to the rich, from small businesses to larger enterprises, from the less vigorous sections of the Province to the more buoyant areas.

Introduction

6. Some will object perhaps to these shifts because larger-than-average incomes and estates would be called upon to pay a larger share of the total cost of services essential for the well-being of all our people. To these objections we say that higher levels of public service in a variety of governmental areas, including health, housing, education and welfare, will be an indispensable component of the environment which will continue to make Ontario attractive to people and their capital. Ontario is potentially so rich, so fruitful, so hopeful, so peaceful, so dynamic, that a relatively small increment in taxation should not discourage imaginative people or venturesome capital from finding in Ontario a jurisdiction par excellence.

7. Our law and order, our economic progress, our rapid cultural and educational development and all of those other characteristics that comprise the good life in a modern industrial state, will be dependent on the environment provided by our provincial and municipal governments.

8. None of this is meant to imply that greater efficiency is not possible in government, because a number of these recommendations are intended to stretch tax dollars farther. We all believe that greater efficiency is necessary and possible. But existing imperfections must not obscure the fact that a high level of public services is absolutely essential to the fulfillment of the aspirations which we all share, whether we be young or old, rich or poor, urban or rural.

9. A program for reforming taxation in Ontario will not eliminate all of the dissatisfactions in the age of rising expectations, but this topic was our particular assignment and it is one way, without doubt, to enlarge and enrich the spirits and the minds and the purses of our people. And it was this bold objective that enabled us to submerge our partisan biases in preparing this Report. It is presented now to the Legislature of Ontario and is dedicated to the continued progress of the people of the Province of Ontario.

PREAMBLE

1. Your Committee has examined the study of the provincial tax structure presented in the Report of the Ontario Committee on Taxation. We cannot overestimate the value of the contribution made by Mr. Lancelot Smith and the members of his Committee. This does not mean that we approve of all of the Smith Committee recommendations. On many issues we disagree strongly. But even in these cases, the evidence marshalled by the Smith Committee provided the stimulus for our deliberations.
2. We believe the implementation of the modified recommendations would produce a significant improvement in the provincial tax structure and in its administration. The attempts of the Smith Committee to rationalize the tax structure deserve commendation and we note here that your Committee has concurred with a substantial number of its recommendations relating to the efficiency and economy of tax administration. We have amended the Smith Committee recommendations when our own deliberations and collective experience indicated that improvement could be made. Examples of such changes are to be found in our proposals regarding succession duty exemptions, quick successions, the concept of the working farm, and the structure of the business occupancy tax among many others.
3. In other instances your Committee's changes have been more substantive. For example, we dissent strongly from the Smith Committee's views on the most appropriate method to tax the Province's resource industries. In particular, we reject its recommendations for the taxation of the mining and forestry industries, and offer alternatives which we believe are more in keeping with the present stage of development of the Province's northern economy.
4. We also reject the method proposed by the Smith Committee for making payments to Mining Municipalities. The procedure they recommended was predicated on what we consider to be an unduly narrow concept of fiscal impairment, and would result in a level of payment which we hold to be grossly inadequate.

Preamble

5. Your Committee agrees that payments to the Mining Municipalities should be based on their fiscal impairment. We hold, however, that this is best measured by the difference between the per capita assessment of a particular municipality, and the average provincial per capita assessment. Our approach would base provincial payments on residential as well as industrial impairment. Since it takes cognizance of the entire fiscal impairment of a municipality it would often yield a larger, and in our view, more satisfactory provincial payment. The method proposed by your Committee has the further advantage that it may be applied readily to all other types of fiscally impaired municipalities should this be considered appropriate in the future.

6. We share the concern of the Smith Committee regarding the equity of the provincial tax structure. Where tax burdens are low, inequities can be tolerated. With increased levels of taxes inequities become intolerable, and both Committees directed their energies to their removal. The Smith Committee was rightly disturbed by the weight of real property tax burdens on low-income families, and offered several proposals to alleviate these burdens. The Basic Shelter Exemption, the assumption by the Province of the costs of administering justice (which measures have already been enacted), an expanded system of per capita grants to the municipalities, and other measures are offered to lessen property tax burdens, and your Committee concurs with them.

7. We are concerned about the revised assessment ratios proposed by the Smith Committee. In the course of our hearings, we were told by municipal delegations that the Smith Committee's ratios would shift the burden from industrial and commercial assessment to residential assessment. While it did not prove possible to make a detailed test of this hypothesis, such calculations as we did undertake substantiated this testimony. In consequence, we find it necessary to offer an alternative set of assessment ratios, but caution that their implications be thoroughly tested before they are enacted.

Preamble

8. The impact of the Smith Committee proposals on the tax mix also caused us concern. The Smith Committee expressed a belief in the desirability of a balanced reliance on the major tax bases, that is, personal and corporate income, consumption, and wealth, but we find that most of the expansion of revenue that was contemplated would be yielded by a more intensive utilization of the consumption base. Both a widening of the Retail Sales Tax base by the inclusion of a specified range of services, and future increases in the rate of the tax are to be used to obtain this increase in yield. Certainly the inclusion of services in the tax base, together with the recommended exclusion of all foods for human consumption, would tend to lessen the regressivity of the pattern of burdens that would otherwise emerge. It is the view of your Committee that this does not go far enough.

9. The major premise on which our recommendations are founded is that the combined provincial and municipal tax burdens should be allocated in a manner which recognizes the ability-to-pay principle. It is the opinion of your Committee that this requires a progressive distribution of burden. To achieve this, we think that an increased reliance on corporate and personal income taxes is necessary, and we strongly recommend that when additional revenues are required, these two taxes be used to yield an appropriate share of the increment. We may further note that there are other reasons commending a more intensive use of these taxes, but we shall defer for the moment our discussion of them.

10. While it is the view of your Committee that the personal and corporate income taxes should be used more intensively, we recognize that the revenue requirements of the Province will also dictate a more intensive use of the Retail Sales Tax. We are concerned that this be made as equitable as possible. As indicated above, we agree that the inclusion of services in the tax base is a step in the right direction. The proportion of income spent on services tends to rise with income. It is essential, however, that the inclusion of services be undertaken on something other than a narrow base. In the opinion of your Committee, it

Preamble

is necessary to make an aggressive attempt to include precisely those services which would contribute to a progressive sales tax burden. We do not think that this has received sufficient emphasis from the Smith Committee.

11. We do not agree that the best method of reducing the regressivity of sales tax burdens is by means of a general exemption of food. As we observe in our discussion of the Retail Sales Tax in Chapter 29, commodity exemptions are a costly and capricious method of reducing sales tax burdens. They do extend relief to those who require it, but at the cost of extending it indiscriminately to those who do not require it. Your Committee therefore recommends the adoption of a sales tax credit system, with the credit being claimed against provincial personal income tax liabilities. When the credits claimed exceed the income tax liability, as would be the case with low-income families and some other families with a large number of dependents, there would actually be a rebate. Thus the system would operate in a manner somewhat analogous to that of a negative income tax.

12. We do not specify here the form which the credit should take. For example, it could be a flat per capita amount, or an amount adjusted to reflect the age, income level, or status (e.g. student, working wife, etc.) of the taxpayer. The important point is that the credit is a flexible and efficient instrument for directing tax relief precisely where it is most needed to relieve regressive patterns of burden. It is this which causes us to recommend it in preference to the food exemption proposed by the Smith Committee.

13. It is appropriate to observe here that we recognize several ways in which the sales tax credit could be administered. The preceding discussion assumed that it would take the form of a year-end claim against the provincial personal income tax, whether this be administered directly by the Province or, as at the present time, through a tax collection agreement with the Federal government. It could

Preamble

also, and somewhat less conveniently, be administered independently by using a separate credit rebate form. Several possibilities are available to the Province in the event that the Legislature implements our recommendation. We should also observe that once the credit approach is adopted, it could be used in a variety of ways, and we direct your attention to our proposal in Chapter 11 for improving the administration of the Basic Shelter Exemption.

14. We indicated above that in the view of your Committee there were several reasons commending a more intensive provincial use of the personal and corporate income taxes. Prominent among these is our concern with the expansion of the provincial debt revealed by the projections undertaken by the Smith Committee. If these projections are borne out, the ratio of net provincial debt to provincial domestic product would rise substantially in the coming decade. We are in complete agreement with the Smith Committee that, with an expanding provincial economy, there is no reason why debt expansion should not be used as one of the means of financing the rising levels of government expenditure. We note that in the absence of increased taxes, however, the combined debt ratio for the provincial and municipal governments would reach very high levels. As the Smith Committee noted, increased tax revenues are obviously necessary. The main issue is how best to raise them, and on this question your Committee disagrees with the Smith Committee.

15. By applying their principal recommendations to fiscal year 1966-67, the Smith Committee estimated that Provincial tax revenues would have increased by \$381 million and that the revised Retail Sales Tax would have accounted for approximately 66 per cent of the increase. We assert that this sales-tax share is intolerably large. It is more appropriate that greater reliance be placed on the personal and corporate income taxes, and this we recommend. There are theoretical difficulties concerning the incidence of the corporate income tax, but this does not warrant the lessening of its relative importance in the provincial tax structure.

Preamble

16. One problem to which our attention was drawn repeatedly concerned the use and taxation of land near the Province's expanding urban centres. Such land is usually more valuable in non-agricultural uses than it is in agriculture. To assess and tax this land on a valuation based on its highest and best use would, in many cases, serve only to drive it out of agriculture. To prevent this, we have proposed a preferred tax status for agriculture. We cannot ignore the fact that the very substantial increases in the value of land in and around our major urban centres are attributable in large measure to the services and social capital provided at public expense. It is appropriate in our opinion that there should be some way in which the public sector could share in this appreciation.

17. To this end, we considered a capital gains tax on land-value appreciation, but we were not able to devise such a tax method in detail. We recommend that the Province explore this possibility further including the tax deferment principle now used for golf courses.

18. In addition to considering a capital gains tax on land-value appreciation, we examined a general provincial capital gains tax, and while this would occasion fewer administrative problems and distortions than a tax on the gains associated with one type of asset alone, we found ourselves in agreement with the Smith Committee in rejecting it. We suggest that this matter be reconsidered in the event that a capital gains tax is introduced by the Federal government.

19. One final observation must be made before concluding this preamble to our Report. It is quite apparent that the future revenue requirements of the Province of Ontario will exceed the revenue-yielding capacity of the existing tax structure. This being the case, new revenue sources must be found, or existing sources used much more aggressively. It is the opinion of your Committee that the Province should be prepared to adopt these courses of



Preamble

action. In particular, the Province must utilize the progressive tax fields to a much greater degree than is the case at the present irrespective of the amount of Federal tax abatement.

CHAPTER 8

FISCAL EFFECTS OF THE RECOMMENDATIONS: PRESCRIPTION FOR FUTURE NEEDS

1. This chapter sought to quantify the fiscal effects on the Province and on its municipalities of the Smith Committee's recommendations. In addition, it prescribed tax rate changes which it believed would be necessary to cope with projected provincial deficits to 1975 assuming that the Province maintains a 9% ratio of debt to provincial domestic product.
2. We think that the Smith Committee's forecasts of revenue effects and proposed tax rate changes would result in an unbalanced tax mix which would fail to produce a taxation system which is "simple, clear, equitable, efficient, adequate and as conducive to the sound growth of Our Province as can be devised". For instance, Table 8:2 (Vol. I, page 265) indicated that the broadened base of the Retail Sales Tax would have yielded an additional \$128 million had these changes been effective in 1966-67. Net new revenue from all other proposed structural changes, would have amounted to \$4 million for that same period. More important, in Table 8:7 (Vol. I, page 276), the Smith Committee contemplated increases in present rates of about 40 per cent in both the Personal Income Tax and the Retail Sales Tax but only 25% in the Corporation Tax by 1974-75. Thus the contribution to total revenue of Corporation Taxes by that year would be approximately 14 per cent, compared to 27 per cent for Personal Income Taxes and 25 per cent for Retail Sales Taxes. The consequences of this taxation mix were not properly evaluated in our opinion and we think it would not produce an Ontario fiscal system which is moderately progressive.
3. These observations lead us to conclude that the Smith Committee should have placed more emphasis on the Corporation Income Tax as a source of revenue even if one accepted the Report's assumption that half of the burden of this tax is shifted to the consumer in the form of higher prices (Vol. I, page 167). We note, as did the Smith Committee,

Chapter 8, Introduction
Recommendation 8:1

that economists are unable to agree on the extent to which corporations are able to shift a profits tax.

4. We believe that the Province should give careful consideration to the effects of the increased gasoline and motor fuel taxes which were proposed by the Smith Committee. Your Committee, moreover, thinks that the area of wealth taxes has been inadequately explored and that it offers both qualitative and quantitative advantages as a potential source of revenue.

5. The important revenue sources with the greatest growth potential, such as personal and corporate income taxes, are largely under Federal control. Such control may be justified by the extremely important role that these taxes play in the efficient and effective operation of a national fiscal policy. We concur with the Smith Committee's recommendation that the provinces must not only receive a larger share of the revenues from these fields but must also be accorded a greater degree of participation in overall fiscal policy deliberations.

6. The three specific recommendations made by the Smith Committee follow with our comments.

RECOMMENDATION 8:1

*The Province raise the average level of education grants to 8:1
60 per cent of school board expenditure over a three-year
period.*

1. The majority of your Committee accepts the 60% provincial share of primary and secondary school expenditures proposed by the Smith Committee as a reasonable short-term objective. At the same time it must be recognized

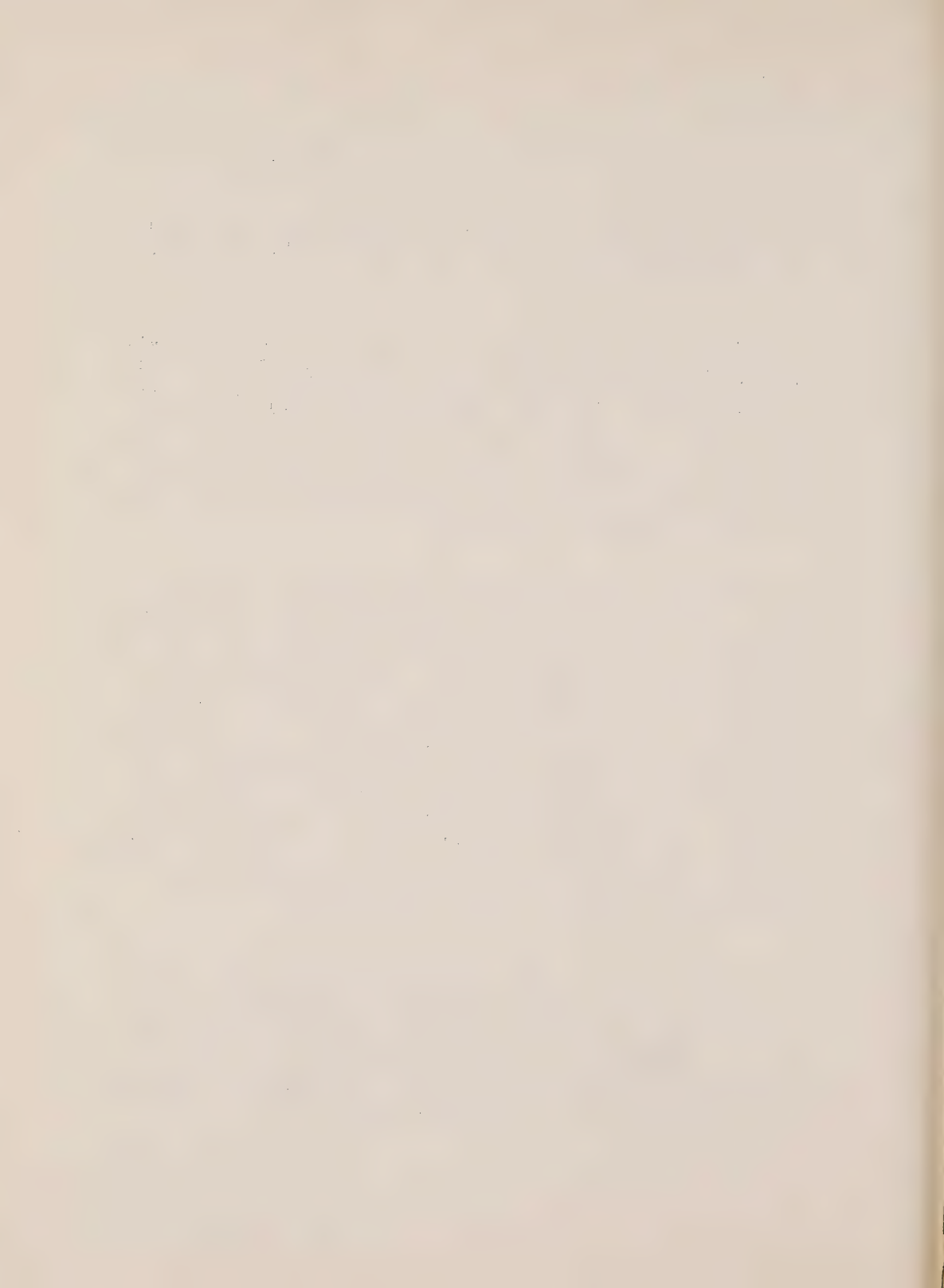
Recommendation 8:1

that the selection was somewhat arbitrary and that persuasive arguments could have been advanced for 55% or 65% or some higher percentage.

2. We do think that with every increase in the proportion of education costs paid by the Province the more likely the possibility of inefficiency at the local school board level or alternatively, the more compelling the need for firmer centralized direction and greater control by the provincial Department of Education. The first prospect is quite obviously not desirable and the second is equally distressing to those of us who have observed diseconomies of scale in growing governmental operations.

3. While we have no objection in principle to a 60% or 70% or 80% provincial share, we do prefer that the Province should seek remedies to the problems of inadequate municipal revenues in a variety of other ways as detailed in many of the following 346 recommendations. Basic shelter grants, increased unconditional grants, full payments in lieu of property taxes, and municipal equalization grants are some of the major sources of increased municipal revenues that are recommended in this report. Coupled with better comparative statistics describing the costs of municipal services, full and accurate accounting records revealing subsidies and surpluses, greater technical assistance from provincial departments, and larger units of municipal government should result in a better balance of revenues and expenditures at the local level of government.

4. Without being dogmatic about this or any other proportion we consider the 60% provincial share which was recommended by the Smith Committee to be a reasonable and sensible objective for the foreseeable future. It is one that would be reviewed as educational costs increase and as changing economic conditions alter the financial position of the Province and the municipalities.



RECOMMENDATION 8:2

*To the extent that higher provincial taxation will be needed 8:2
to meet future revenue requirements, the Province employ
a carefully balanced combination of increases in income,
consumption and wealth taxes designed to take account of
the considerations made explicit in this Report.*

1. This was the only recommendation which suggested sources of additional income "to the extent that higher provincial taxation will be needed to meet future revenue requirements".
2. The Smith Committee, however, simply called for "a carefully balanced combination of increases in income, consumption and wealth taxes designed to take account of the considerations made explicit in this Report".
3. Your Committee noted that various tables setting forth proposed changes in the inter-related weight and use of the various forms and types of taxation are included in Chapter 8 (Tables 8:6 and 8:7, pp. 275-6, Vol. I) but that the only concrete recommendation for a major increase in revenue is to be found in the chapter on the Retail Sales Tax and this related to the extension of this tax to certain services (Recommendation 29:9).
4. The choice of this one new revenue source and the pattern of taxes which emerges from the Smith Committee's tables in Chapter 8 does not appear in our opinion to give sufficient weight to the criterion established by the Smith Committee itself, namely, equity in the sense of an Ontario fiscal system which is moderately progressive.
5. The Smith Committee's selection of a broadened Retail Sales Tax as the principal way to lighten the load on the

admittedly regressive property tax would make the Ontario tax system only slightly less regressive.

6. Further recourse to increased sales and gasoline taxes, as indicated in Tables 8:6 and 8:7, would accentuate the undue reliance on regressive consumption taxes.

7. The proposed surcharge on the personal income tax could also add to the burden on the lower income groups who many observers believe to be paying more than a fair share of the personal income tax at the present time. We conclude that consideration should have been given to lightening the impact of the increase in personal income taxes on the lower income groups by broadening the base and revising the rate structure.

8. In the light of the foregoing we recommend that the pattern of changes in the tax mix and in the tax rates be designed so that the overall Ontario tax system is restructured along more progressive lines in the interests of social justice and economic growth.

RECOMMENDATION 8:3

Ontario negotiate with the federal government for substantial tax room over and above any abatements that might be granted in lieu of existing shared-cost programs. 8:3

We agree with the Smith Committee that Ontario's need for additional tax room from the Federal government is essential. Further tax abatements are clearly necessary if the revenue needed to finance expanding provincial and municipal services are to be met. We think that, because the personal income tax has the greatest growth potential, further Federal abatement of this tax is most important. If federal-provincial economic co-ordination is improved,

further Federal abatement in this tax field would be possible without inhibiting the Federal government's ability to stabilize economic activity.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN CHAPTER 8

DISSENT 1: RECOMMENDATION 8:1

Messrs. Trotter, Deacon and Breithaupt stated:

1. The Liberal members of the Select Committee do not agree that the 60% figure cited by the Smith Committee was "arbitrary". They believe that the Committee meant what it said, and that the figure of 60% is totally inadequate for the following reasons:
 - (a) Education is the prime investment which the provincial government can make in the Province. No other investment will yield such a high return over such a long period of time.
 - (b) Waste comes from a large number of unrelated aid proposals rather than from a major single source of aid. We believe that by concentrating maximum aid to municipalities in the form of an 80% educational grant, the burden will be relieved on the property owner and, indirectly, on the tenant, especially in burgeoning dormitory communities. The socially desirable goal of equality of opportunity for all students in Ontario, regardless of where they live, will be brought much closer.
 - (c) We have access to later studies than those available to the Smith Committee. Even so, the projection of educational costs does not include anything for the implementation of the recommendations of

the Hall Report on the Aims and Objectives of Education in the Province of Ontario; the consequent development of educationally desirable information retrieval systems and the creation of County Boards of Education. Nor is anything included for the possible further rationalization of this process into the domain of regional government, and the large initial cost of automating the record-keeping and data-processing demands of individualized instruction. These costs are vast and must be met. They far outweigh the school population "bulge" as a problem to be faced by a responsible government. They can only be optimized at certain quite clearly definable but variable levels. They are, furthermore, extremely hard to explain in terms associated with local government. For reasons of sheer practicality they are best met at their optimum level. Even discounting earlier claims for economies of scale, the scale is not yet that of the municipality. Nor will it be for many years to come, even though automation assists us to reduce the problem.

- (d) Our reaction to witnesses in the field has confirmed our earlier belief that local alienation from the educational process occurs for reasons other than a lightening of the local financial burden on a community. Apathy, mistrust and suspicion arise as a result of a breakdown in personal relationships and the attitude of individuals in bureaucratic authority. To ask municipalities to counteract this by indulging in regressive local taxation in order to run their own show to a greater degree is to attack the problem from the wrong position. None of the witnesses we heard was distressed at the thought that a higher proportion of educational costs might be met from the more remote provincial source.
- (e) Progressive taxation is always preferable to

regressive taxation. For this reason, also, we see the relief of the harassed property owner and tenant as long overdue. With educational costs rising at the predicted rate, a 60% relief will quickly be swallowed up in real terms, and little benefit will be felt at the household level.

2. We strongly endorse the need for more adequate leadership by the provincial Department of Education, even though the Progressive Conservative members of the Committee find "direction....distressing" in paragraph 2 of the majority comment. We have sound reason for concern. We have on file documented examples showing a gross lack of provincial departmental advice to school boards relative to technical procurement. In each instance the provincial Department of Education has shown complete indifference to the legalities and technicalities involved, and the boards have been left to sort out the mess for themselves. We believe it is through lack of leadership and co-ordination in these growing specialist areas that waste will occur, rather than because of deliberate profligate spending by the boards. These boards are, after all, responsible bodies and sensitive to public opinion.

3. The stand we have taken in regard to the primacy of education has recently been tacitly endorsed by the provincial Minister of Education. On Monday, August 19th, 1968, while speaking at the Young Canada Day luncheon at the Canadian National Exhibition, Hon. William B. Davis referred to the Economic Council of Canada's Fourth Annual Review (1967), quoting from the text as follows: "We recommend that the advancement of education at all levels be given a very high place in public policy, and that investment in education be accorded the highest rank in the scale of priorities."

Mr. Davis added: "Nothing could be more positive than that. There are no ifs or buts. My advisers and I, both in Education and University Affairs, from our own investi-

Dissent 1: Recommendation 8:1
Dissent 2: Recommendation 8:1

gations, have found nothing in it to quarrel with, and the position it takes seems to be fully endorsed by the Provincial Committee on the Aims and Objectives of Education in its recent Report."

4. By 1975, there will be 750,000 students in the 15 to 19 group, and 82% of them will be in school. It will by then be a rare thing to see anyone under the age of twenty in regular full-time employment of any significance. Can municipalities face this total change? Between 1945 and 1964, municipal debt increased by more than six hundred per cent, while provincial debt increased by only one hundred and twenty per cent. This trend will be aggravated if the Smith figure of 60% aid is adopted. As County Boards begin to call the tune, should local authorities continue to pay the piper? Even a uniform educational tax rate would be a crushing burden on some municipalities in relation to others within a County. As the jurisdictions are rationalized, so must the method of financing education throughout Ontario. 80% aid combines all the desirable features of progressivity and equality of opportunity, even as it relieves the municipal taxpayer. Anything less will be too little and too late.

DISSENT 2: RECOMMENDATION 8:1

Messrs. Lawlor and Pilkey stated:

1. That we feel that even if all the Smith Committee's recommendations for lightening the burden on the property tax were implemented, they do not add up to a solution to the municipal tax crisis in this Province. The regressive property tax must be relieved of the mounting costs of education, health and welfare and be reserved for services more closely related to property.

2. That we can neither accept the Smith Committee's recommendation that provincial contributions to education

Dissent 2: Recommendation 8:1

stop at 60% nor the Select Committee's belief that broadening and streamlining the property tax, instituting gimmicks like the Basic Shelter Grant and improving statistics are an answer to the pressing needs of the municipalities and school boards.

3. That we therefore recommend that the Province undertake to increase its overall contribution to education costs from the present 46% to 80% in a phased program over the next five years, and that at the end of that period, it consider whether considerations of school board autonomy, municipal needs and efficiency require it to assume a still larger proportion.

4. That we contend that the financial requirements for transferring this social cost from the narrow-based property tax to the broader provincial tax base are entirely manageable. We estimate that it would cost \$70 million in the first year and rise to a total of \$375 million in fifth year, as follows:

<u>Year</u>	<u>No. of Points</u>	<u>Value per Point</u> (\$ million)	<u>Amount per Point</u> (\$ million)	<u>Cumulative Amount</u> (\$ million)
1969-70	7	10.0	70.0	70.0
1970-71	7	10.5	73.5	143.5
1971-72	7	11.0	77.0	220.5
1972-73	7	11.6	81.2	301.7
1973-74	6	12.2	73.1	374.8

We look to five possible sources for obtaining additional revenue of this magnitude without increasing the burden on the lower income groups or producing serious adverse effects on our economy. They are:

(1) Growth in Gross Provincial Product. If we adopt

Dissent 2: Recommendation 8:1
Dissent 3: Recommendation 8:2

expansionary policies and a progressive tax system, we will have an elastic revenue structure - i.e. one in which revenues grow faster than provincial product, thus producing a surplus for new programs and larger grants.

- (2) A broadened income tax base. The Carter Commission pointed to almost \$5 billion of income (both personal and corporate) which was either not taxed at all or was being taxed too lightly. Ontario could expect to share in the additional revenue from this source.
- (3) Additional taxes on the resource industries which are contributing less than 2% of the value of their production to the Province at present.
- (4) Additional taxes on wealth through higher succession duties on beneficiaries other than widows and dependent children.
- (5) More tax room from the Federal government. With the distinct possibility that defence expenditures can be reduced in the near future, the Federal government should be in a position to give a greater share of the income taxes to the provinces whose expenditures are growing at a faster rate.

DISSENT 3: RECOMMENDATION 8:2

Messrs. Trotter, Deacon and Breithaupt stated:

1. The view of the Smith Committee is that there is no alternative to higher provincial taxation. The Liberal members of the Select Committee are not prepared to concede

Dissent 3: Recommendation 8:2

the premise on which this recommendation is based without first calling for a most thorough review of government expenditures. We take the view that it is not our place to recommend tax increases, but rather to ask the government to justify them. We have been able to agree with over three hundred "housekeeping" recommendations of the Smith Committee. It should be recognized that our endorsement as Liberals of these proposals is made with the clear understanding that this basic difference in philosophy remains.

2. In our view, substantial savings can be effected in the organization of government in Ontario, and in the day-to-day carrying out of governmental responsibilities. It is over ten years since the Gordon Commission looked into the operation of the government of Ontario, and we feel that the time is ripe for another such review. The Province is also faced with a series of management decisions in the field of capital expenditure. Many of these have technological overtones, and all of them involve large sums of public money. Whereas, in the past, an executive mistake might have cost the public thousands of dollars, today an error costing millions is conceivable. As an example, rapid technological advance has rendered obsolete the proposed passive Provincial Educational Television network, which would have cost about \$23 million had the Province gone ahead with its construction only two years ago. Simple prudence demands that independent expert advice should always be sought in such matters. It is no longer enough to have cost benefit analyses conducted wholly within branches and departments, without external check.

3. The curtailment of government expenditures should be given the most serious consideration before new taxation of any kind is recommended. We are coming perilously close to the limits of individual and corporate tolerance in the taxation field. Since both people and business are essentially mobile, we should avoid any action that would make Ontario less attractive as a base for personal living, professional practice, commercial activity or industrial growth.

Dissent 3: Recommendation 8:2
Dissent 4: Recommendation 8:2

4. In Canada today, the various levels of government expropriate one-third of the Gross National Product. What proportion of the GNP may government consume before individual freedom and economic growth are seriously curtailed? The hitherto seemingly uncontrollable rise in governmental expenditures in Canada has produced a deficit of \$5 billion in the last five years of continuous prosperity. The time may now have come to call a halt to all non-productive government expenditure and to add to the static cost benefit equation the factor of "regeneracy". We must ask ourselves: Will a given item of expenditure create, not just jobs, but a climate in which productivity and growth will thrive? This is surely the rationale behind the cancellation of the Federal Winter Works Program -- an avowed make-work program which was beginning to degenerate into a pork-barrel -- in favour of the greater possibilities afforded by Manpower retraining. Most provincial programs will not pass the test of regeneracy, even though they may withstand rigorous cost benefit analysis. The exception is education which is totally regenerative when wisely administered.

5. It is in this light that we regard with great scepticism the philosophy of the government as expressed in the current issue of the Ontario Economic Review. The Treasury article emphasizes "the relative inflexibility of provincial expenditure at any given time" and "the many rigid factors that play a dominant role in the provincial budget". Clearly this kind of thinking motivated the Smith Committee in its proposal of Recommendation 8:2, to which we cannot subscribe.

DISSENT 4: RECOMMENDATION 8:2

Messrs. Pilkey and Lawlor stated:

1. That both the Smith Committee and the Select Committee have failed in their basic task of proposing a re-shaping of the Ontario tax structure to make it a

truly progressive and dynamic system.

2. While both Committees profess in high sounding phrases to have done this, their recommendations in total go no further than a tidying up of obsolete tax statutes and minor improvements in equity.

3. Lacking is a concrete proposal for giving our local governments the revenues they need to meet the problems of urbanization, and a pattern of tax changes which will provide the Province with the funds it needs to close the looming expenditure-revenue gap.

4. Both Committees look to more use of the personal income tax to meet future revenue needs but neither makes any concrete proposal for fundamental reform of the personal income tax along the lines suggested by the Carter Commission in order to make it a fairer instrument for taxing income. Without such reform we cannot have a truly progressive tax system.

5. Where is the Select Committee's proposal implementing its assertion that an increased contribution to the Province's needs should come from corporate taxpayers and the taxation of wealth in a balanced tax system? We have serious misgivings that the proposed property tax changes will inevitably shift some of the burden from certain business taxpayers to homeowners and can see no prospect of much increased yield from the suggested changes in the Succession Duty Act, however admirable they may be in increasing the equity of this cobweb-encrusted statute.

6. Neither Committee really concedes that the people of Ontario are entitled to a great deal more revenue from our \$2 billion resource industries. The Smith Committee proposed a 50% increase in mining taxes but this would amount to only about \$6 million and would leave Ontario

Dissent 4: Recommendation 8:2

still far behind Quebec and British Columbia in the weight of its mines taxation. The Select Committee asks only for a Mines Profits Tax which would produce a yield "at least equal" to present revenue, but it looks for an additional 50% from extending municipal taxation to certain mining properties. In our opinion this timid approach to the taxation of the resource industries is an abdication of the Committee's responsibility to the people of Ontario who are the owners of the resources and are entitled to a greater return from them than 2% of the value of production.

7. We note that the Select Committee criticizes the heavy reliance of the Smith Committee on regressive commodity taxes in its schedule of proposed tax changes, and we concur in this criticism. However, we fail to see how the specific recommendations of the Select Committee offer much in the way of an alternative schedule, and particularly note the absence of a definite stand on capital gains taxation.

8. While we regret that the Smith Committee forthrightly rejected a Municipal Foundation Program, we welcome the position and comments of your Committee with respect to the modified introduction of such a plan. Your Committee suggested that its new system of payments to Mining Municipalities "may be the harbinger of Municipal Equalization Grants for less prosperous communities across Ontario". We regret that it did not make a specific recommendation for instituting a Municipal Foundation Program as the only answer to the municipal tax crisis and an end to disparities in burdens and services.

9. While we admit that many of the Select Committee's recommendations constitute an admirable and long-overdue reform of existing tax statutes, we feel that they have

Dissent 4: Recommendation 8:2
Dissent 5: Recommendation 8:3

given us an engine tune-up but not a new model. They have failed to produce a blueprint for a tax system which will achieve their avowed objectives of social justice and economic growth.

DISSENT 5: RECOMMENDATION 8:3

Messrs. Trotter, Deacon and Breithaupt stated:

1. We believe that the provincial government should approach the Federal government with a demand for a voice in the make-up of the shared tax base, rather than cap-in-hand for more abatements. We are also concerned that Ontario, as the richest province in Confederation, should not go to Ottawa to nibble at the foundations of Canada while paying lip service to the idea of economic equality of opportunity throughout the nation. Canada is not a loose Confederacy, ready to balkanize itself at whim. A strong Federal government is also necessary for adequate fiscal management of Canada's affairs. The price of our independent existence must necessarily be paid, in the main, by those who can best afford it. These are the people who have most to lose from its attrition: the people of Ontario. We cannot continue to exist indefinitely in a Federal Union whose other members have a standard of living significantly lower than our own. As well as for the compelling reasons of social justice, we must, in our own interest, assist other provinces, through the Federal agency, to share in Canada's possibilities. We must give more than we receive.

2. This is not to say, however, that the possibilities of arrangement are exhausted. Some of the roadblocks to the most efficient use of our national fiscal resources are constitutional, while others relate to the relative "credit rating" of the different levels of government at any given time. We all subscribe to J. Stefan Dupré's five objectives of modern public finance.

Dissent 5: Recommendation 8:3

These are:

- (a) a reasonable balance between expenditure demands and taxing and borrowing capacity
- (b) an equitable distribution of expenditure benefits and tax burdens among all citizens
- (c) efficiency in government operations
- (d) the promotion of economic stability by the insulation of income from cyclical downswings and undue price inflation; and
- (e) the encouragement of long-run economic growth.

We say, therefore, that there is room for dialogue, and for some trading of fields (e.g. succession duties for abatement points), but that Ontario must not look to Ottawa to save it from the consequences of its failure to keep its provincial house in order.

CHAPTER 9

INTRODUCTION TO VOLUME II

1. In the introduction to Volume II The Smith Committee restated the necessity for retaining the property tax as the base for municipal taxation. It also made two recommendations unrelated to the foregoing - one concerning the transfer of responsibility for the administration of justice to the Province, and the other recommending improvements in the reporting of municipal financial statistics.

2. The Smith Committee recommended the retention of the property tax as the best method for providing local government with the revenue required to finance those services which the public requires. The Smith Committee recognized that the Province could provide a uniform standard of public services but concluded that the wide variation in the needs of the residents of various areas of the Province made this approach impractical. Certain responsibilities, therefore, have historically been delegated to local governments with the necessary power of taxation to fulfill these responsibilities. The Smith Committee stated that it was unable to discover or devise a workable alternative to the real property tax without impairing local autonomy and fiscal responsibility. The property tax is conceptually simple, efficient and easily administered. Therefore, the Smith Committee endorsed the property tax as the major source of municipal tax revenues while proposing certain important reforms. Your Committee agrees with this endorsement.

3. The two recommendations made in Chapter 9 are independent of each other and of the philosophic examination of the property tax. The Smith Committee stated there was one responsibility which should be removed from local government - the administration of justice - and dealt with the matter early in the Report. We note that the Legislature has implemented this recommendation and no further comment is necessary except to say that we agree with this change.

4. The second recommendation dealt with the reporting of municipal financial statistics, which the Smith Committee found to be inadequate, both as a source of accurate comprehensive information, and as a check and means of supervision of local government spending. With this your

Committee agrees.

5. Your Committee, therefore, deals with these two recommendations as follows.

RECOMMENDATION 9:1

All local responsibilities for the administration of justice related to the functioning of the county courts, the county jails, the regional detention centres, the registry offices and the land titles offices be transferred to the Province, and the local responsibility for all other courts be transferred to the Province under arrangements providing for 9:1

- (a) an appropriate apportionment of the revenue from fines between the municipalities and the Province, and*
- (b) recognition of the interest of local public welfare officials in the proceedings.*

This recommendation has already been enacted and we concur with its necessity.

RECOMMENDATION 9:2

The Province take steps to improve the reliability and comprehensiveness of the reporting of municipal financial statistics. 9:2

We endorse this recommendation for the reasons enumerated in the Smith Committee Report. We point out that improved municipal financial statistics would have the salutary effect of inducing efficiency in many departments of municipal government. We believe that it would be useful if the Department of Municipal Affairs were to develop and prescribe methods of program budgeting and accounting to be used by all municipalities and municipal enterprises in order that statistics would be comparable between municipalities.



Recommendation 9:2

Such statistics would enable municipal governments to compare their costs of providing various services to those of other municipalities thus encouraging better methods and greater economy. In addition, improved reporting would provide a basis for more meaningful public scrutiny of the affairs of each municipality.



CHAPTERS 11, 12, 13 and 14

TAXES ON PROPERTY

1. The Smith Committee's recommendations regarding property taxation were included in four chapters of which Chapter 11 dealt with basic issues, Chapter 12 with exemptions from the property tax, Chapter 13 with methods and problems of assessment, and Chapter 14 with tax collections.

2. The major premise underlying these chapters was that the maintenance of local authority and fiscal responsibility required that the property tax continue as a major source of local revenue. Accordingly, the prime concern of the Smith Committee was to suggest ways in which the efficiency and equity of the tax might be improved. Recognizing that the burdens imposed by the property tax reflect expenditures for shelter and that the tax is not closely correlated with the taxpayer's ability to pay, the Smith Committee was anxious to lower the property tax burden, particularly on lower-income families.

3. While the burden of property taxes is substantial, measured either as a percentage of personal income or of personal disposable income, the Smith Committee did not consider it to be intolerable. It did recognize, however, that the burden is particularly heavy in some municipalities, and this prompted its consideration of statutory limitations on property taxes. In a context in which the Province is bearing a substantial part of the costs of education, and in which the municipalities are receiving other provincial grants, the statutory limitation was rejected by the Smith Committee on the basis that autonomy at the local level is dependent on the power to decide the direction and the amount of money to be expended on the services for which the municipality is responsible.

4. In general, the Smith Committee was also opposed to the support of specific groups, either by tax deferral or by outright tax reductions. If support were to be given, it should, in their view, be given in a manner which reduces the weight of local taxes for all taxpayers, with relatively more reduction going to those taxpayers who occupy modest dwellings. It believed that such assistance should come not at the expense of property taxpayers, but rather from the Province's general tax revenues.

Assessment

5. Inequities and inefficiencies which may be tolerable in a tax imposing light burdens, can become intolerable when the burden increases. The Smith Committee was of the opinion that given the magnitude of the burdens now imposed by the property tax, its various deficiencies were becoming intolerable.

6. The Smith Committee held that a major source of the present inequity is the inadequacy of the existing assessment practices. While recognizing that Ontario is by no means unique in suffering from widespread assessment anomalies, the Smith Committee considered the situation to be critical and suggested rapid remedial action. It was particularly concerned that gross inequities have been and are being experienced because of gross underassessment. The remedy, it argued, is to be found in achieving a fair relationship between the value of one piece of property and that of another, and it believed that this would most readily be done if all property were assessed at current market value or what it called "actual value". Assessments based on a distant base year are a source of confusion to many taxpayers, and militate against their perceiving assessment inaccuracies. Indeed, such a method may engender a feeling of inequity even when the assessment is accurate.

7. In addition to the use of current market valuation when assessment is made, the Smith Committee held that frequent reassessment is necessary. With market value assessment, any inequities which emerge are not likely to be serious, and frequent reassessment will make them short-lived.

8. With frequent, current market value assessment, anomalies both within and between municipalities will tend to diminish. Equity will be served in consequence, and the provincial equalization indexes may be used more confidently for grant purposes.

9. While the Smith Committee believed that valuation for tax purposes should follow normal or standard procedures wherever possible, it did recognize that there are properties which cannot be assessed readily and taxed in the normal manner. Transportation, communication, mining and

Taxes on Property

farm properties were listed as requiring special treatment. Even in the case of these special classes of property, the Smith Committee held that, where possible, valuation for tax purposes should follow the normal course. Only if this were done could the value of any concessions granted be accurately determined by the authorities and comprehended by other taxpayers.

Exemptions

10. In addition to fair and accurate assessments, an equitable property tax structure must be devoid of an unstructured system of exemptions. Any exemption erodes the tax base and causes heavier burdens to be borne by the holders of property not eligible for exemption. While exemptions may be viewed as a means of extending aid to particular groups, the Smith Committee considered them to be less satisfactory for this purpose than the alternative which is direct grant assistance. This should not be understood to imply that all exemptions are undesirable; on the contrary, the Smith Committee cited the Basic Shelter Exemption as an example of a desirable exemption. Nonetheless, the fact that grants are more apparent to the taxpayers, and that grants are subject to annual re-examination, was held to be an overwhelming advantage. If grants are retained in these circumstances, one can be more confident that they are being used for purposes of which the taxpayers approve. It is more difficult to be confident about exemptions, which tend to become hidden from view with the passage of time.

11. While exemptions are embodied in Canadian constitutional documents (the property of the Crown being specifically exempted) the Smith Committee believed that all property, private and public, should bear a fair tax burden. In addition, it concluded there was no reason why the method of payment should vary with the nature of the ownership of the property. Accordingly, it was recommended that all Federal and provincial property should be assessed in the regular manner, and that full payments in lieu of school-board and municipal taxes should be made. Indeed, the pursuit of neutrality in taxation caused the Smith Committee to look with favour on the taxation of municipal property, even if this would result only in a book transfer within the municipality. Consistency with the treatment of other property would be observed, and an awareness would be fostered of the cost of taxes incurred by the local author-

ity through property ownership.

12. The Smith Committee was especially concerned that there should be no exemption from property taxes or business taxes for municipal business enterprises. If resources are to be efficiently allocated, it is essential that such municipal enterprises and comparable private enterprises be on the same basis, and this could be achieved only if both were assessed and taxed for property and business taxes.

13. Any substantial alteration or reduction of the existing structure of exemptions would be disruptive to many institutions. This could be counteracted by an expanded system of grants, and the Smith Committee stated that municipalities should be given grant-making powers commensurate with the needs of the community.

Collections

14. Given the existing levels of property taxes, the Smith Committee said that payments must be made in a manner which minimizes the burden and inconvenience for the taxpayer, while maximizing the certainty of collection and the prompt receipt of the amounts levied. This would be most readily accomplished if the frequency of the tax payments were increased and the magnitude of the individual payments were correspondingly reduced.

15. The recommendations made in these four chapters are dealt with below.

CHAPTER 11

TAXES ON PROPERTY: BASIC ISSUES

RECOMMENDATION 11:1

*The Assessment Act be amended to define real property 11:1
liable to assessment as being land and any building or other
structure on, over or under the land, and that for this pur-
pose a building or structure include only such machinery
and equipment as is a part thereof and is used or required
primarily for the purposes of the building or structure or to
make it more habitable.*

We concur with the Smith Committee's recommendation that the present definition of "land", "real property" and "real estate" requires thorough review and revision because of present complexities and resultant inequities. We are particularly concerned, as was the Smith Committee, with the anomalies which exist in the present treatment of "fixtures". We endorse this recommendation because it proposed a definition of real property which would exclude machinery and other fixtures not related directly to the building or structure in which they are located. Such a definition would eliminate discrimination against particular industries in taxation matters. For example, we see no reason why pin-setting machines in a bowling alley should be considered assessable as real property, as is the case at present, while pool tables in a billiard parlor are not. We recommend also that the term "under the land" exclude mines specifically. (See Chapters 12 and 32.)

RECOMMENDATION 11:2

*All legislative instruction as to the circumstances affecting 11:2
value required to be taken into account in determining actual
value for assessment purposes be removed from the legisla-
tion, including the right to adopt assessment manuals by
reference.*

We are in general accord with the Smith Committee's contention that legislative provisions concerning assessment be kept to a minimum while maximum use be made of assessment counsel and guidance. This would provide the best guarantee of assessment at actual value. Reference to a manual may be helpful for properties such as churches

Recommendation 11:2 11:3

and industrial plants which never or rarely change ownership and which are not ordinarily valued by the market. Thus, while we expect the assessor to consult sales values whenever available, it is essential to have uniform yardsticks to apply to properties which are not ordinarily traded in the market. The assessor should have at his disposal every available method including a manual to arrive at the best estimate of actual value. We suggest therefore that this recommendation be ended with the word "legislation". We emphasize that we intend that the assessment manual be only one of a number of aids to be used in arriving at actual value for a property and that the manual not have the force of law. The recommendation would read.

All legislative instruction as to the circumstances affecting value required to be taken into account in determining actual value for assessment purposes be removed from the legislation.

RECOMMENDATION 11:3

*The Assessment Act be amended to provide that real property 11:3
is to be assessed at actual value without reference to the value
at which similar real property in the vicinity is assessed.*

We agree with the Smith Committee's position that the sole criterion for assessment should be the actual value of the real property. The effect of this recommendation, which we endorse in principle, is to prevent a property-owner from using his neighbour's under-assessment to alter his own assessment downward. We think, however, that the use of the term "without reference to the value at which similar real property in the vicinity is assessed" is both ambiguous and confusing. What is intended is that neighbouring assessment values be taken into consideration in arriving at actual value but that they not become the overriding determinant. We therefore suggest that the recommendation be ended after the words "actual value". This is subject to the qualifications concerning the determination of actual value dealt with in Recommendation 11:13 and taxable assessment dealt with in Recommendation 11:16. The revised recommendation would read as follows.

The Assessment Act be amended to provide that real property is to be assessed at actual value.

RECOMMENDATION 11:4

*The assessed value of each parcel of real property be divided 11:4
into land and structures, and for this purpose*

- (a) the amount attributable to structures that have value be
the amount by which the assessed value of the real
property exceeds the value of the land, and*
- (b) where the assessed value of the real property is
decreased because of the presence of the structures, the
structures be determined to have no value, and the value
of the land be the assessed value of the real property.*

1. We reject this recommendation because the allocation of real property value between land and structures is almost invariably an arbitrary division, not one that is established by objective market forces. The premise that such allocation facilitates the preparation of land value maps is inaccurate. We understand that to be accurate such maps must be based on actual sales of vacant land or of improved properties sold for redevelopment purposes and these values would continue to be available from appraisal cards. If no such division were made the problem of specially valuing properties on which stand obsolete buildings would be eliminated. Assessing at actual value would reflect the change in the value of property caused by obsolete structures.

2. We believe that the change to a single total assessed value would eliminate the problem now experienced when a property-owner successfully appeals the "land value" portion or the "building portion of the value" separately, even though the total assessment is acknowledged to be accurate. It would decrease also the cost of the preparation of the rolls because of the elimination of superfluous detail. We recommend therefore that property be assessed at actual value - that is its price in the market - and that no attempt be made to arbitrarily assign the value of its components. These remarks are subject to qualifications under Recommendations 11:13 and 11:16 regarding valuations for tax purposes.

RECOMMENDATION 11:5

*The Assessment Act require that properties be assessed as 11:5
at March 31 of the year in which the assessment roll is
returned.*

In keeping with our decision concerning the date of the fiscal year (Recommendation 14:1) your Committee rejects this recommendation. We conclude that the practice should remain as it is whereby properties are assessed as of September 30 each year, thereby allowing the rolls to be returned in time for appeal proceedings and for the preparation of the voters' list.

RECOMMENDATION 11:6

*Legislation be enacted to enable any municipality or local 11:6
board to appeal any provincial assessment equalization to be
used directly or indirectly in determining any part of its
expenditures or revenues.*

Your Committee endorses this recommendation because the new appeal procedure would be simpler and more accessible than that now existing.

RECOMMENDATION 11:7

*The Department of Municipal Affairs be granted the right 11:7
to appeal any municipal assessment singly or any number
of assessments collectively within any local assessment juris-
diction.*

This recommendation is the complement of Recommendation 11:6 and we endorse it as a means of obtaining more accurate and equitable property assessments.

RECOMMENDATION 11:8

Where, as the consequence of one or more appeals, a reassessment is deemed desirable in the interests of equity, the Lieutenant Governor in Council be authorized to order the reassessment on recommendation of the Minister of Municipal Affairs. 11:8

We endorse this recommendation.

RECOMMENDATION 11:9

The Department of Municipal Affairs be authorized, after due notice, to reassess a municipality at the municipality's expense where the local assessment as equalized by the provincial index has for a specified number of years remained below a specified percentage of actual value. 11:9

We endorse this recommendation because it would permit the Province to eliminate under-assessment relative to other municipalities without the necessity of proving that the municipality's assessment is also inequitable within its assessment jurisdiction as is the case at the present time.

RECOMMENDATION 11:10

The necessary changes be made in municipal and school legislation to require mill rates for commercial and industrial taxpayers to be uniform with those for residential and farm taxpayers. 11:10

Your Committee agrees with the Smith Committee's conclusion that the split mill rate is undesirable because it does not represent the best form of relief for residential ratepayers and because of its instability. We therefore endorse this recommendation. We emphasize that acceptance of this recommendation must not be allowed to shift the prevailing tax burden from commercial and industrial taxpayers to homeowners, household tenants, and farmers. We note that the yield from different classes of property can

be varied upwards or downwards by altering the percentage of assessed value to which the single uniform mill rate would apply. It should be noted that the tax burden would be lightened on all classes of property, including business property, because of the shift of taxation from property to more broadly based and more progressive tax bases at the provincial level, when other recommendations in this report are implemented.

RECOMMENDATION 11:11

*From the taxable assessment of residential property, there 11:11
be allowed a basic shelter exemption in respect of each self-
contained dwelling unit of*

- (a) \$2,000 multiplied by the provincial equalization factor
for the municipality, or*
- (b) 50 per cent of the residential taxable assessment appli-
cable to the self-contained dwelling unit,
whichever is the lesser.*

1. We note that the Province implemented this recommendation early in 1968 with the modification that the 50% limit set forth in Recommendation 11:11 (b) was not adopted. We concur with the new legislation including the elimination of the maximum of 50% of the residential taxable assessment but we recommend the following method of implementing the Basic Shelter Exemption.

2. As referred to in the preamble, we are recommending the termination of the present policy of exempting certain classes of goods and services from consumption based taxes with the objective of making this form of taxation more equitable and efficient. The description of the "Credit Approach" to Retail Sales Tax is described in the introduction to Chapter 29 (The Retail Sales Tax).

3. If the Province adopts your Committee's recommendation with respect to rebates under Retail Sales Taxes, we further recommend that the Basic Shelter Exemption be an additional credit recoverable by means of a decrease in personal income tax whether this tax be a positive or a negative amount. This would eliminate the administrative expense now in-

curred by municipalities and landlords, and would minimize the administrative expense to the Province without adding significantly to the expense or inconvenience of the recipients of the Basic Shelter Grant.

4. The "Credit Approach" would permit the exclusion of second residences (such as cottages) in a way that now seems administratively impossible, thereby increasing the degree of progressivity that the Basic Shelter Grant gives to property taxes. It would eliminate exemptions to non-residents in a way that seems not inconsistent with the objectives of the program. It would assure that the credit reached the tenant. Finally, this method would eliminate the present difficulties in apportioning rebates to those householders who occupy more than one residence during a calendar year. Of course, the credit would be restricted to one per family.

RECOMMENDATION 11:12

The Assessment Act define business properties and occupancy for business purposes. 11:12

We endorse this recommendation. We think that occupants of business properties should continue to be subject to a special business occupancy tax and consequently we think that these terms should be defined in The Assessment Act. As we discuss under Recommendation 11:16 we believe that real property taxable assessment should generally be set at a constant percentage of the actual value of the property. Thus any definition should relate to current use and no recognition need be given to the past or prospective use of vacant property all of which could be treated as residential.

RECOMMENDATION 11:13

- (a) *The provisions of The Assessment Act requiring the actual value of farm lands and buildings to be determined on a special basis be repealed; and* 11:13
- (b) *The provisions of The Assessment Act and The Police Act providing for exemption of farm lands from taxation for certain expenditures be repealed.*

We reject this recommendation. We are concerned that part (a) of this recommendation, if adopted, would result in increased taxes on farms in some areas of the Province and force significant numbers of farmers from the land. We think that farm land should be assessed at its actual value in agricultural use. Furthermore, we can find no justification for requiring a farmer to pay for services not available to him. Such an arrangement flies in the face of equity.

RECOMMENDATION 11:14

The assessment of the land and structures of a farm property be separated into working farm assessment, and residential assessment, and 11:14

- (a) the farm dwelling and the other parts of the farm holding not qualifying as working farm be classified as residential property;*
- (b) where part of a farm property does not qualify as working farm because it is not fully utilized, only that portion of the farm lands and structures that is reasonable in the circumstances be classified as working farm; and*
- (c) the onus be upon the farm owner to establish the extent to which a farm property should be classified as working farm.*

1. We endorse part (a) of the recommendation as amended below and reject parts (b) and (c) in full.

2. With respect to part (a) of the recommendation, we endorse the principle that farm dwellings should be treated as are all other residential properties. Farm land and structures that do contribute directly to the farming activity should be classified as "working farm" and assessed as such. We do not believe that the concept of "full utilization" should be used to decide the working farm assessment for the reasons set out below, and therefore we amend part (a) to read as shown below.

3. Respecting parts (b) and (c) of the recommendation, we do not think that the concept of "full utilization" of farm lands and structures should be introduced to delineate the

property that may qualify for working farm assessment. We are of the opinion that this concept was introduced so that land speculators who hold unused farm lands for future development would not obtain the lower farm taxation factor. Your Committee is of the opinion that in this situation the Assessment Act is not the best method for dealing with the problems arising from land speculation which are best controlled by land-use legislation. Therefore we reject this part of the recommendation. Because part (c) is an extension of the same principle as is found in part (b) we reject part (c) of the recommendation also. The amended recommendation reads.

The farm dwelling and the other parts of the farm holding pertaining to the farm dwelling be classified as residential property.

RECOMMENDATION 11:15

Suitable definitions of "farm" and "working farm" be 11:15 enacted in The Assessment Act.

1. Your Committee subscribes to the view of the Smith Committee that the equitable assessment and taxation of farming property requires a suitable definition of a working farm. Accordingly, we offer below for your consideration a definition after which legislation may be modelled.

2. It is inevitable that in the interpretation of this, or any alternative definition, disagreements will arise between affected parties. Your Committee believes that the most satisfactory method of dealing with these would involve the utilization of a special county or regional Farm Classification Board. We therefore recommend that:

County or regional Farm Classification Boards be established, each Board to consist of three members appointed by the Ontario Department of Agriculture, for the purpose of resolving disputes arising from the interpretation of the definition of a "working farm".

3. This recommendation is subject to our comments to be found in Chapters 18 and 25 as to the powers of a Review Board.

4. In order that a farm be assessed and taxed as a working farm, it is necessary:

- (i) that on units of 100 acres or less, which are not engaged in livestock or poultry-feeding operations, gross sales of agricultural products in the preceding calendar year must have been at least \$3,000. Where the acreage of such units exceeds 100 acres, the gross value of sales per acre must be at least \$30.
- (ii) that in the case of livestock or poultry-feeding operations conducted on units of 100 acres or less, the excess of the value of livestock or poultry sales in the preceding calendar year, over the costs of purchased livestock or poultry sold in that same year, must exceed \$3,000. For units for which the acreage exceeds 100, the excess referred to in the preceding sentence must be at least \$30. per acre.
- (iii)
 - (a) that prior to the sending of the assessment notices, the Farm Classification Board determine the suitability of the financial requirements set out in paragraphs (i) and (ii) above for its jurisdiction. Where these are found to be unsuitable for the whole or any part or parts of its jurisdiction, such other amounts as may be recommended by the Farm Classification Board and approved by the Ontario Municipal Board shall be used in their stead.
 - (b) that the Farm Classification Board hear and decide any appeals lodged with it within 60 days of the sending of the assessment notices from anyone claiming that his property falls within the definition of a "working farm". The Farm Classification Board is empowered to change the assessor's decision and to re-classify the property as a "working farm" for what, given the intent of the definition, the Board considers to be due cause.
- (iv) that the farm must be engaged in the production of

livestock, poultry, produce for human consumption, field crops, tobacco, or Christmas trees.

- (v) that in the case of a farm raising livestock for other than human consumption, only the value of the produce raised on the farm, for consumption by these animals, be considered as satisfying the financial requirements set out above.
- (vi) that subject to the minimum income tests prescribed above, concentrated agricultural production units for the production of human food, such as operations involving greenhouses, broiler houses, hatcheries, laying houses, mushroom houses, rhubarb houses, apiaries, and facilities for the specialized and intensive production of hog, beef, and dairy products, be considered as working farms, and this whether all or part of the feed or supplies for such operations is purchased.
- (vii) that only such storage buildings and feed-production structures operated exclusively in connection with the field crop, livestock, or poultry operations should be included as part of the working farm.
- (viii) that commercial feed mills and farm supply outlets as well as all buildings or plant for the use of slaughtering, grading, or processing operations be classified as commercial operations, and taxed accordingly.
- (ix) that failure to achieve the financial requirements set out above shall not affect the tax status of a working farm which continues to be used for purposes of farming where:
 - (a) the farmer has spent at least five years on his working farm;
 - (b) the farmer, having attained a minimum age of 60 years, is retired or semi-retired; or
 - (c) the farmer is infirm.

Recommendation 11:15

for the purposes of this definition a farmer may be defined as the full - or part-time operator, whether owner or tenant, of a working farm.

- (x) that the assessment of a working farm be unaffected by any activity other than farming which may be undertaken by the operator or owner.
- (xi) that where an orchard or vineyard is not yet yielding a full crop, it may still be classified as a working farm so long as the potential crop that will be yielded at maturity would satisfy the financial requirements listed above. The same shall be true of a farm in any other crop which, by its nature, cannot be harvested for one or more years.
- (xii) that where for reasons beyond the control of the farmer, he is unable to meet one or more of the requirements here set out, the tax status of his farm shall be unaffected for one year.

5. Where the working farm is taxed in the manner indicated in amended Recommendations 11:14 and 11:16, we think that the maintenance of land in agriculture around our major urban centres will be facilitated. We do not believe, however, that a preferential tax status alone will suffice, in the longer run, to maintain farming in areas of rapid urban development. Lower tax burdens would permit a particular farmer to farm his land longer than would otherwise be the case, but when he does decide to sell his farm it will go invariably to the highest bidder. Around the urban centres, land is worth more for development than it is for agriculture. In consequence, the highest bidder will tend not to be a farmer, and the land will be lost to farming. If farming is to be maintained in these areas of rapid population growth, it is our view that a land-use policy will be necessary in addition to taxation policies.

6. The basis for this preferential treatment lies in the historic low-cost food policies of the several levels of government in Canada and in recognition that the farm sector of the economy is bearing a disproportionate share of the social cost of rapid technological change.

7. We have embarked on a definition of a "working farm" because of the clear need for a workable definition and because of the considerable interest expressed by many of the delegations which appeared before us.

RECOMMENDATION 11:16

- (a) *All real property, whether taxable or not, be assessed each year at 100 per cent of actual current value;*
- (b) *Residential properties, recreational properties and wasteland be subject to property tax on a taxable assessment of 70 per cent of assessed value;*
- (c) *Business properties other than transportation and communications properties, but including working farms and taxable mining properties, be subject to property tax on a taxable assessment of 50 per cent of the assessed value;*
- (d) *Occupants of business properties other than working farms and transportation and communications properties, but including taxable mining properties, be subject to business occupancy tax on a taxable assessment of 50 per cent of the assessed value of the occupied property at the same mill rate as the property tax; and*
- (e) *Roadways and rights-of-way over land used by transportation and communications businesses be exempt from property and business occupancy taxes, and other properties of such businesses be subject to property tax and the occupants thereof be subject to business occupancy tax on a basis to be determined when the assessment of the properties has been completed.*

1. Your Committee is in agreement with the principles inherent in the series of proposals under this recommendation and concurs specifically in the following assertions.

- (a) All real property, without exception, should be assessed annually at actual value (see also Recommendation 11:3 as to "actual value" and Recommendation 13:3 as to annual assessment).
- (b) A single mill rate should be applied to the taxable assessment which is to be computed for different classes of property by varying the percentage factor applied to actual assessed value.

- (c) The percentage factor to be applied to the actual value of residential properties (including farm residences) to determine taxable assessment should be less than the factors (incorporating property and business tax) to be applied to commercial and industrial properties.
 - (d) The percentage factor to be applied to working farm properties to determine taxable assessment should be less than the factor used for residential purposes.
 - (e) The multitude of percentages currently used to determine business assessment by type of enterprise should be eliminated.
2. In determining the relative percentages to be used to determine taxable assessment, your Committee thinks that the following considerations should be taken into account.
- (a) The percentage used for residential property should not be such as to result in a shift of the municipal tax burden from commercial and industrial to residential taxpayers. We are convinced that the proposed 70% factor would result in such a shift.
 - (b) Similarly, the percentage used for working farm properties should not result in an increased burden on the farming community. We are convinced that the proposed 50% factor would so do.
 - (c) The rate of business taxes to be paid by small businesses should not be such as to result in a shift of the weight of business tax to this portion of the business community.
 - (d) A standard percentage of taxable assessment for residential, commercial and industrial property tax is recommended to maintain the present practice whereby the property tax on vacant business property is the same as the property tax on residential property.
3. It is the decision of your Committee that the above

objectives could better be accomplished by adopting the following procedures.

- (a) Assess all real property at actual value.
- (b) Compute the taxable assessment for property tax at 60% of assessed value for all residential and business property and for recreational properties, wasteland, non-working farms and taxable mining properties. The Smith Committee made no determination concerning the appropriate rate of taxation for transportation and communications properties and your Committee has had insufficient information to determine an appropriate factor.
- (c) Compute the taxable assessment for property tax at 40% of assessed value for property meeting the definition of a working farm.
- (d) Apply a graduated business tax increment ranging from 10% to 40% of the assessed value of the real property. This would be charged to all occupants of industrial and commercial properties.
- (e) Introduce progressivity to business taxes by relation to the value of real property assessment. This could be accomplished by levying a business tax (that is, the single uniform mill rate) on 10% of the first \$10,000 of assessment, 20% on the second \$10,000, 30% on the third \$10,000 and 40% on any amount in excess of \$30,000.

4. In making this recommendation concerning a graduated business tax, we are expressing our concern over the possible impact of the Smith Committee's proposals on smaller businesses. For example, the small retailer who pays a 25% business tax at present (i.e. a factor of 125) would have to pay approximately 43% business tax (i.e. a factor of 143) if the Smith Committee recommendations were implemented without modification. By reducing the residential assessment ratio to 60% rather than 70% of the maximum for business, and by providing a gradation in the scale of business tax as suggested above, the factors would become -

Recommendation 11:16

<u>Assessed value of real property</u>	<u>Property tax and business tax factor</u>
\$ 10,000	70% (60% + 10% on \$10,000)
20,000	75 (60% + 10% on \$10,000 + 20% on \$10,000)
30,000	80 etc.
100,000	94 etc.
500,000	99 etc.

5. The data were not available to enable your Committee to quantify these changes accurately but we believe they would eliminate the shift in tax burden which would result from the Smith Committee's recommendations as evidenced by data presented to us by a number of municipalities in different areas of Ontario.

6. As noted above, the Smith Committee made no determination of an appropriate rate for transportation and communications properties. Rather, a decision was deferred pending the complete assessment of these properties as contemplated in this recommendation and as recommended in Recommendation 13:2. We have rejected Recommendation 13:2 because of our uncertainty as to whether certain property of these companies such as poles and wires would be included within the definition of real property, our concern with the difficulties of valuing such properties, and the redistribution of revenues which would follow. Consequently, we reject part (e) of this recommendation noting that we have concurred with other recommendations which would provide for a clear definition of the term "real property" and the requirement that all such property should be assessed annually at its actual value.

7. On the basis of these considerations we amend Recommendation 11:16 to read as follows.

- (a) All real property, without exception, be assessed annually at actual value;

- (b) Residential properties, business properties (other than transportation and communications properties), recreational properties, wasteland, non-working farms, and taxable mining properties be subject to property tax on a taxable assessment of 60% of the assessed value;
- (c) All property classified as "working farm" be subject to property tax on a taxable assessment of 40% of the assessed value; and
- (d) Occupants of industrial and commercial properties (other than transportation and communications properties), be subject to a graduated business occupancy tax on a taxable business tax assessment of 10% on the first \$10,000 of assessment, 20% on the second \$10,000, 30% on the third \$10,000 and 40% on any amount in excess of \$30,000.

RECOMMENDATION 11:17

- (a) *The legislative provisions for single- or multi-purpose urban service areas be consolidated and made applicable on a uniform basis to all local municipalities;*
- (b) *A municipality be required*
 - (i) *to give its taxpayers three weeks' notice of its intention to establish or alter the boundaries or the services provided by an urban service area, and*
 - (ii) *to provide an opportunity for delegations to be heard by council before introducing or amending its local by-laws; and*
- (c) *Each urban service by-law or amendment require the approval of the Ontario Municipal Board to be granted, and if in the opinion of the Board a sufficient objection to the by-law has been filed with the Board, only after a public hearing.*

We endorse this recommendation because it would consolidate the various sections of the many public and private statutes dealing with single- or multi-purpose urban service areas into one section of The Municipal Act. This recommendation is consistent with the recommendations in Chapter 15 which would consolidate the various statutes

dealing with special capital levies into one statute for greater simplicity and uniformity. We endorse the procedure as set out in parts (b) and (c) of the recommendation.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS

IN CHAPTER 11

DISSENT 1: RECOMMENDATIONS 11:10 and 11:16

Messrs. Pilkey and Lawlor stated:

1. That we note the Select Committee's concern that no shift from the business taxpayer to the homeowner be allowed to occur, but we fail to see how this will be achieved by the proposals relating to Recommendations 11:10 and 11:16.

2. The Smith Committee noted that on the average, business property paid 43% more tax than residential property. The Select Committee's proposed schedule of the percentage of business assessment to be taxed under Recommendation 11:16 will collect only 45% more from businesses paying above an 87% rate (i.e. 145% of 60%). Whether there are enough businesses falling in the categories above this rate to offset the lower contribution from those below, is something only to be determined by a detailed survey.

3. The elimination of the split mill rate and possible changes in the assessment of communications and transportation companies may also contribute to a shift from business to homeowners.

4. We therefore recommend that the implementation of these recommendations be delayed until a thorough statistical analysis has been made of their effects. If it is found that a substantial shift in the burden of the property tax would occur in many municipalities, we recommend that the proposed schedule be modified; in any event we urge that relieving provisions be considered for individual municipalities which may be adversely affected due to the specialized nature of their business assessment.

Dissent 1: Recommendations 11:10 and 11:16
Dissent 2: Recommendation 11:11

5. We also recommend that relief be considered for the small businessman if it is found that the new proposals adversely affect him to the extent of threatening his livelihood.

6. In addition, if certain industries such as distilleries or transportation and communication companies gain substantial tax reductions from the new basis of property and business taxation, we urge that modifications of the proposals be considered since the present tax level is already built into their price structure and the reduction in taxes is not likely to be passed on to the consumer.

DISSENT 2: RECOMMENDATION 11:11

Messrs. Lawlor and Pilkey stated:

1. That we concede that the Basic Shelter Credit for Municipal Taxes reduces the regressivity of the property tax slightly, but we contend that it does not offer a real solution to the problem of unequal municipal tax burdens and the need for more revenue at the local level to meet the increasing responsibilities of an urbanizing society.

2. We also question the upside-down logic of repaying the taxpayers' money to them instead of restructuring the tax system to collect whatever amount is needed on the fairest possible basis in conformity with ability to pay. In our opinion, this kind of device can only be comprehended as a political expedient to hand out favours to the electorate, and the Select Committee's proposal that it be paid out as an income tax credit confirms this view. Moreover the Basic Shelter Credit suffers from many defects, among which are the difficulty of channelling the credit to tenants, the provision of benefits to cottage owners, including many foreign owners, the impossibility of relating it to ability to pay and its high administrative cost.

3. The Select Committee's proposals for converting it into an income tax credit do not overcome all of these objections, and in particular, offer no solution to the very serious problem of passing it on to tenants.

Dissent 2: Recommendation 11:11
Dissent 3: Recommendation 11:14

4. In the light of the above, we recommend that a more efficient use be made of the \$150 million in provincial funds required for the credit by substituting for it a Municipal Foundation Program which would in effect put a ceiling on the regressive property tax and provide local governments with the funds they need for a basic standard of services without having to resort to an above-average level of taxation. It would be based on the concepts of a standard mill rate, standard costs and provincial equalization grants to make up the deficiency between the yield of the standard mill rate and the standard cost.

DISSENT 3: RECOMMENDATION 11:14

Messrs. Lawlor and Pilkey stated:

1. That we commend the Select Committee for its herculean efforts to grapple with the problems of the encroachment of urban centres on precious farm and fruit land and the resulting effect on farm land values and taxes, but we have nagging doubts that the proposed solution may leave loopholes for the land speculator and the gentleman farmer to escape their fair share of taxation.
2. Accordingly, we recommend that a survey be made of the effects of this recommendation on a representative sample of land areas within 3 years and if it is found that these two groups are able to qualify for the lower tax rate intended for working farms, that steps be taken to alter the definitions and standards in order to exclude them.
3. Conversely, if the definitions and standards are found to be preventing genuine farmers from qualifying for the lower tax rate for farms, modifications should also be made.
4. Furthermore, the absence of a capital gains tax at either the provincial or the federal level tempts us to recommend a special tax on the unearned increment which accrues to land speculators and farmers from the development of nearby urban centres. However, we recognize that this kind of a selective capital gains tax may cause economic distortions and presents administrative problems and we put it down as a second best.

Dissent 3: Recommendation 11:14
Dissent 4: Recommendation 11:15

policy. As our first choice, we urge the Ontario Government to press the Federal and other provincial governments to bring Canada's tax system into harmony with the rest of the western world and tax all capital gains under the Income Tax Act. This would contribute a great deal to the equity of our overall tax system, would reduce the incentive for land speculation and would return to the people a share of the windfall which both speculators and farmers often derive from the efforts of other taxpayers in developing a city.

DISSENT 4: RECOMMENDATION 11:15

Mr. Lawlor stated:

1. Under this head, while accepting the basic concept and operative idea of a "working farm", I wish only to advert to Paragraph 4 (vi) which specifically mentions certain farming operations which fall within the definition. I simply request the Legislature to give careful attention to certain concerted commercial operations, such as "broiler factories" in setting its qualifications for the reduced tax rate. The revolution in the chicken and other fowl industry is well launched; and soon, livestock and pigs will be placed on an assembly-line basis. This is the coming thing, and I question somewhat whether such quasi-industrialized operations ought to be dealt with in the same way as soy beans or barley.

CHAPTER 12

TAXES ON PROPERTY: EXEMPTIONS

RECOMMENDATION 12:1

The Province make payments in lieu of school taxes on its properties, in addition to those now made in lieu of municipal taxes, and to the extent that they apply to elementary schools, such payments, as well as those now made by the Hydro-Electric Power Commission of Ontario, be computed at the lower of the public or separate school mill rate applicable where each property is situated and be distributed to the school boards on the basis of pupil enrolment. 12:1

We endorse this recommendation because it would correct the present deficiency in the payments in lieu of taxes made by the Province on provincial properties which the equalization features of the Ontario Foundation Tax Plan can reduce but not eliminate. The Province should pay full grants in lieu of municipal and school taxes without exception and having reached this level, should prevail on the Federal government to do likewise.

RECOMMENDATION 12:2

A municipality be given a right of appeal to the Ontario Municipal Board respecting the terms of any agreement made with the Minister of Lands and Forests in regard to the financing of an access road to a tax-exempt provincial park. 12:2

We endorse the recommendation. We are of the opinion that a municipal right of appeal to the Ontario Municipal Board would be an improvement on the present practice. This is subject to our comments relative to appeals as noted under Chapters 18 and 25. We amend the recommendation by deleting the word "tax-exempt" because it is thought to be redundant in view of Recommendation 12:3 below. The revised recommendation reads as follows.

A municipality be given a right of appeal to the Ontario Municipal Board respecting the terms of any agreement made with the Minister of Lands and Forests in regard to the financing of an access road to a provincial park.

RECOMMENDATION 12:3

The Province and all its agencies, and the Hydro-Electric Power Commission of Ontario undertake to make full payments in lieu of municipal, school, business occupancy and local improvement levies on their properties other than 12:3
(a) *public highways,*
(b) *land betterment works, to the extent that they convey an unrestricted community benefit,*
(c) *recognized historic sites that are not being exploited commercially, and monuments or memorials, except to the extent of their utilitarian value, and*
(d) *remote or undeveloped Crown lands not under lease or subject to mining or timber rights and not benefiting from local government services,*
except to the extent that such payments are reduced in recognition of local services provided by the owner of the property upon agreement with the local authorities, who shall have a right of appeal to the Ontario Municipal Board as to the amount of any such reduction.

1. We endorse this recommendation in principle, but amend it by inserting after sub-part (d), a fifth exception for "provincial parks", which we think was omitted inadvertently and by striking out the last five lines from the words "except to the extent that..." to the end of the recommendation.

2. We have deleted the last five lines of the recommendation as proposed by the Smith Committee because they are inconsistent with the position taken with respect to the question of exemptions generally. The payments of taxes for services available rather than payment for services received has been an accepted principle of long standing, and any compromise of this principle would result in an ever-increasing number of exemptions. We oppose, therefore, any reduction in taxes to an owner who provides local services to his property for whatever reasons.

3. We make two further qualifications to the recommendation, as amended. First, we recommend that land betterment works should pay full taxes if they are revenue producing, whether or not they convey an unrestricted community benefit. Secondly, we define the words "utilitarian value" to mean the rental value of that part of the site only to the extent that it is rented or leased to a private individual or a commercial enterprise.

4. The revised recommendation reads as follows.

The Province and all its agencies, and the Hydro-Electric Power Commission of Ontario undertake to make full payments in lieu of municipal, school, business occupancy and local improvement levies on their properties other than

- (a) public highways,
- (b) land betterment works, to the extent that they convey an unrestricted community benefit,
- (c) recognized historic sites that are not being exploited commercially, and monuments or memorials, except to the extent of their utilitarian value,
- (d) remote or undeveloped Crown lands not under lease or subject to mining or timber rights and not benefitting from local government services, and
- (e) provincial parks.

RECOMMENDATION 12:4

*Privately and municipally owned recognized historic sites 12:4
that are not being exploited commercially be subject to taxation or payments in lieu of taxes only to the extent of their utilitarian values.*

We endorse this recommendation. As in Recommendation 12:3 above, we define the words "utilitarian value" to mean the rental value of that part of the site only to the extent that it is rented or leased to a private individual or a commercial enterprise.

RECOMMENDATION 12:5

Local authorities be permitted to enter into agreements with property owners for reductions in their taxes based upon their undertaking to provide all or some of their own local services, subject to review by the Ontario Municipal Board. 12:5

We reject this recommendation for the same reasons that we recommended the deletion of the last portion of Recommendation 12:3 above. We think that this recommendation is inconsistent with the position taken on exemptions generally. It would allow an increasing number of exemptions in cases such as those mentioned in the recommendation. We reassert that the principle of the payment of taxes for services available rather than payment for services received is a principle of long standing and general acceptance, and that it should be followed in this case.

RECOMMENDATION 12:6

After introducing a system of full payments in lieu of taxes on provincial and Hydro properties, the Province petition the federal government to extend its system of grants in lieu of taxes on federal properties, including the properties of Crown corporations and agencies, to parallel the basis of payments in lieu of taxes on provincial properties, subject to: 12:6

- (a) retention of the exemption of Indian reserves;
- (b) federal decision respecting the precise basis of grants for school purposes;
- (c) continuation of the present method of assessing federal properties for grants in lieu of taxes; and
- (d) continuation of the referral of all matters relating to federal grants in lieu of taxes to the Minister of Finance for final determination.

1. We endorse this recommendation because the Federal government should make the same payments in lieu of taxes as are proposed for the Province. In the case of school taxes the revenues should be apportioned on the basis of public and separate school enrolment as was recommended in Recommendation 12:1 above.

2. We recommend, however, the deletion of parts (b), (c), and (d) of the recommendation because they are inconsistent with the system of full payments in lieu of taxes as is proposed for provincial properties, and we believe that the two systems should parallel each other. The revised recommendation reads as follows.

After introducing a system of full payments in lieu of taxes on provincial and Hydro properties, the Province petition the federal government to extend its system of grants in lieu of taxes on federal properties, including the properties of Crown corporations and agencies, to parallel the basis of payments in lieu of taxes on provincial properties, subject to:

(a) retention of the exemption of Indian reserves.

RECOMMENDATION 12:7

- (a) *Local government property occupied for purposes of a business enterprise be taxable on the same basis as private business property; and* 12:7
- (b) *Full taxes, excluding levies for county, metropolitan or other second-tier requisitions, be payable to local municipalities and to school boards on all other properties of*
 - (i) *an upper-tier municipality,*
 - (ii) *a local authority whose territorial jurisdiction overlaps local municipal boundaries,*
 - (iii) *a local municipality situated outside its boundaries, or*
 - (iv) *a local board situated outside the municipality where it exercises jurisdiction.*

We endorse this recommendation. We think that municipal

business enterprises should not receive hidden benefits. With respect to the second part of the recommendation, we conclude that a local municipality should not bear the whole burden of servicing properties within its boundaries owned by an upper tier municipality or by a local authority or board whose jurisdiction extends beyond the boundaries of the municipality, just as it should not bear the burden of servicing provincial or Federal government properties situated within its boundaries.

RECOMMENDATION 12:8

*The same partial or full exemption from payments in lieu 12:8
of taxes as those recommended for provincial properties be
extended to local government properties.*

We endorse this recommendation. It is the corollary to Recommendation 12:3 and would exempt municipal roads and streets, land betterment works, recognized historic sites and monuments, and municipal parks from payments in lieu of taxes.

RECOMMENDATION 12:9

*All present exemptions from property taxation to institu- 12:9
tions of higher learning be terminated following provincial
review of the merits of each institution for continuing finan-
cial assistance; and provincial grant support to institutions
of higher learning in lieu of the tax exemptions be confined
to those institutions recognized for the purpose by either the
Department of University Affairs or the Department of Edu-
cation.*

We endorse this recommendation. We have learned from many delegations that have come before us that those municipalities with universities and colleges are labouring under a particular disadvantage and require financial assistance to compensate for the substantial loss of tax revenues. We recommend, therefore, that the exemption of these institutions from property taxation be terminated. We recommend that provincial grants be used to reimburse approved insti-

tutions for the payments of these taxes.

RECOMMENDATION 12:10

All present exemptions from property taxation to private schools be terminated following provincial review of the merits of each school for continuing financial assistance; and provincial grant support to private schools in lieu of tax exemptions be confined to schools providing approved education at the elementary or secondary levels.

We endorse this recommendation because the tax position of private schools is similar to that of universities and colleges. We recommend that provincial grants to private schools should not exceed the actual amount of taxes paid by these private schools to the local municipalities within which they are situated.

RECOMMENDATION 12:11

Public hospitals be made subject to full realty taxes and, where applicable, local business taxes; and

- (a) public hospitals be authorized to include pertinent realty and business taxes as part of their costs under the Hospital Care Insurance Plan;*
- (b) the Province undertake to pay in full the realty and business taxes chargeable to the Hospital Care Insurance Plan and negotiate with the federal government to share the cost; and*
- (c) the Province give consideration to granting further support to each public hospital in respect of local taxes that would not be chargeable to the Hospital Care Insurance Plan, and from which it is now exempt, before the exemption is terminated.*

We endorse this recommendation because it would remove the burden of providing services to public hospitals from the municipality in which the hospital is situated and would redistribute the burden more equitably over the taxpayers of

the Province as a whole.

RECOMMENDATION 12:12

The Assessment Branch of the Department of Municipal Affairs be authorized to assess institutions of higher learning, private schools and public hospitals on which the Province makes grants in lieu of realty or business taxes, and such assessments be subject to appeal.

We endorse the recommendation. It follows from Recommendations 12:9, 12:10 and 12:11 above.

RECOMMENDATION 12:13

Places of worship and land used in connection therewith, and religious seminaries not classed as institutions of higher learning or as private schools, be reassessed at actual value and taxed on a taxable assessment of 5 per cent of actual value in the first year and 10 per cent in the second year, with increases of 5 percentage points each succeeding year until a level of 35 per cent, or such other maximum percentage as a review of the tax position of places of worship made after five years may indicate to be appropriate, has been reached.

We could not come to a unanimous decision on this recommendation. A majority of your Committee accepted the recommendation with the modification that the maximum percentage of taxable assessment should be 20%, and that the tax should be introduced in equal increments of 2 percentage points per year over a period of ten years. Some members of your Committee took the position that no taxes should be levied on places of worship, and another proposed that only the land but not the structure of the place of worship be taxed.

RECOMMENDATION 12:14

Present cemetery lands remain exempt while they comply with the terms of their existing exemption except when classified as adaptable to an alternative use, in which event they become taxable on a change of use or at the end of three years, whichever is earlier; and newly designated cemetery lands be taxable.

We endorse this recommendation. We propose that cemetery land which becomes taxable under this recommendation be taxed on a taxable assessment of 60% of assessed value (see Recommendation 11:16). If any portion of such property should have a commercial business associated with it, however, then the business occupancy tax and the municipal property tax should be applied to that portion.

RECOMMENDATION 12:15

All present exemptions from property taxation to charitable organizations, social and community service groups and similar bodies be terminated following review by the appropriate governmental authorities of the merits of each organization for continuing financial assistance; and

(a) legislation be enacted to permit each municipality to make annual grants to charitable organizations, institutions, associations and others engaged in works that, in the opinion of the council, are for the general advantage of the inhabitants of the area; and

(b) the taxes on a formerly exempt property be limited, after deduction of any governmental grants-in-lieu, to one-third of the property and business taxes or \$100, whichever is the greater, in the first year and to double that amount in the second year.

1. We endorse this recommendation in principle. We do not think that there is a need for staging this tax burden and therefore we delete part (b) of the recommendation.

2. We amend the recommendation further by deleting the word "governmental" in line 4 and inserting in its place the word "local", which we believe to be the intention of the

Smith Committee. The recommendation, as amended, therefore reads as follows.

All present exemptions from property taxation to charitable organizations, social and community service groups and similar bodies be terminated following review by the appropriate local authorities of the merits of each organization for continuing financial assistance; and

- (a) legislation be enacted to permit each municipality to make annual grants to charitable organizations, institutions, associations and others engaged in works that, in the opinion of the council, are for the general advantage of the inhabitants of the area.

RECOMMENDATION 12:16

The exemption contained in The Assessment Act of up to twenty acres of a farm used for forestry purposes, and the authority given in The Trees Act for a township council to exempt from taxation lands under reforestation by agreement, both be revoked.

We reject this recommendation. We think that the provisions in The Assessment Act and The Trees Act should be even more generous to promote forest conservation even more vigorously.

RECOMMENDATION 12:17

No further fixed assessments or fixed taxation agreements be authorized by either public or private legislation, and steps be taken to reconcile existing fixed assessments or taxes with the need for reassessment throughout Ontario at market value.

We endorse the recommendation for the reasons given by the Smith Committee.

RECOMMENDATION 12:18

The proposed legislation respecting business assessment provide that all property used in common by business tenants and their customers be subject to business assessment against either the owner or the tenants. 12:18

We endorse the recommendation because it would eliminate the present exclusion of parking areas in shopping centres which are not assessed now for business tax as a result of recent court decisions. We think that all property that is used for business purposes should pay business taxes.

RECOMMENDATION 12:19

The exemption from business assessment of subordinate lodges of registered friendly societies be revoked. 12:19

We endorse the recommendation because we think that subordinate lodges should be liable, as are other taxpayers, to business assessment in respect of any business carried on by them.

RECOMMENDATION 12:20

Municipalities be permitted to pass by-laws exempting from business assessment land set aside for free employee parking for a five-year period, and be permitted to renew such exemptions by by-law for further periods of five years. 12:20

We reject this recommendation and, in addition, recommend a change in the present legislation to remove the exemp-

tion from business tax granted to land set aside for free employee parking. We are of the opinion that valuable land is being retained for future development at the expense of the municipality by designating it as a free employee parking area. Secondly, we are of the opinion that a taxing statute should not assume the function of a planning statute. Finally, we believe that the provision of employee parking lots, is part of the cost of doing business as is the provision of employee cafeterias and recreational areas. Such parking lots should be taxable in the same way as are other employee service areas.

RECOMMENDATION 12:21

The present formula for the computation of provincial payments to mining municipalities under The Assessment Act be replaced by a formula under which 12:21

- (a) *the payment is computed by applying the municipality's mill rate for the immediately preceding year to a "municipal mines assessment";*
- (b) *the "municipal mines assessment" of the municipality is computed as that proportion of its "fiscal impairment" that the number of its mining employees resident in the municipality bears to the number of all employed persons resident in the municipality; and*
- (c) *the "fiscal impairment" of a municipality is computed as the amount needed to make the ratio of its commercial and industrial assessment to total assessment equal to that same ratio for similarly situated non-mining municipalities.*

1. We agree with the conclusions of the Smith Committee that the present formula for payments to Mining Municipalities is inequitable and capricious in nature. While we understand the desire to recognize the existence of the mining property within a municipality, we have serious reservations that the inclusion in the formula of mining profits of mines located in the municipality is the proper method to accomplish this. We agree with the Smith Committee that the principal component of the formula, if continued along the present lines, should be the number of resident miners and should exclude non-resident miners working in the municipality. The deficiencies in the present formula are recognized

Recommendation 12:21

as evidenced by the three controls which have been put into the calculation. The fact that these controls had to be employed for 37 of the fifty-nine affected Mining Municipalities in 1966 and 23 of the sixty in 1967 is a clear indication that the basic formula itself leaves much to be desired. Consequently, we are in agreement with the Smith Committee's recommendation that a new formula be found.

2. Your Committee concludes that the emphasis of the Smith Committee on the concept of fiscal impairment was appropriate. Nevertheless we are unable to accept the recommendation of the Smith Committee for a number of reasons including the substantial reduction in payments which would be experienced by Mining Municipalities.

3. We think that the Smith Committee understated the fiscal impairment by comparing the Mining Municipalities with non-mining municipalities in the north. We think it is more logical to compute the fiscal impairment by reference to the average per capita assessment of all Ontario municipalities. An additional weakness of the Smith Committee formula is that it gave no recognition to the additional costs of providing services in the north.

4. Having computed the fiscal impairment of the municipality, the Smith Committee reduced this figure to an amount determined by utilizing the ratio of miners to total labour force in the community. We do not agree with this approach but think rather that the amount of fiscal impairment of the municipality in total should be the governing factor.

5. We did consider recommending that the provincial payment be determined by applying the local mill rate to an additional or imputed assessment computed by applying to the existing residential assessment base a standard ratio of business to residential assessment. We are concerned, however, that the application of a uniform ratio to the existing residential base would in no way recognize differences in per capita residential assessment. For example, the residential assessment may be composed of 100 \$6,000 homes in one municipality while in another it may be composed of 20 \$30,000 homes. We do not think that each of these two municipalities requires similar assistance.

6. It is the view of your Committee that the Mining Municipalities are not alone in suffering from fiscal impairment. Consequently, we recommend that any new system which is developed should be capable of being extended to other fiscally impaired Ontario municipalities by stages.

7. We have noted that fiscal impairment is not restricted to the industrial/commercial assessment and may extend to the residential sector. We therefore conclude that the most useful measure of fiscal impairment is the difference between the provincial per capita assessment (commercial, industrial and residential) and similarly computed per capita assessment of the fiscally impaired community. For brevity this difference may be described as the "per capita fiscal impairment".

8. The provincial grant should be influenced not only by the fiscal capacity of the municipality but also by the fiscal effort which it is making. Some indication of this would be provided by the mill rate which is being applied against its taxable assessment. By making the equalization grant depend on fiscal effort as well as fiscal capacity a municipality would be prevented from levying a low mill rate on its own taxable assessment while making up the revenue shortfall from provincial sources. We therefore recommend that the equalization payment to a fiscally impaired municipality be computed by multiplying the "per capita fiscal impairment" by the product of the municipal population and mill rate.

9. We recommend that such a formula should be initially used in determining payments to Mining Municipalities. If the method should prove to be successful we anticipate the subsequent extension of such a formula to all fiscally impaired Ontario municipalities. If provincial resources require that such a plan be instituted in stages it should be extended first to those municipalities having the greatest per capita fiscal impairment.

10. We are convinced that the implementation of our recommended equalization grant system would not seriously distort the location of industry. Such factors as accessibility to markets and raw materials, communication and transportation facilities, and the availability of a skilled labour force are the prime determinants of industrial location. A

Recommendation 12:21 12:22 12:23

municipality with these attributes would be called upon to provide services for many of the industrial workers of any industry that it forced to locate outside its boundaries. The neighbouring municipality would, however, receive the additional industrial tax base. This incentive would be reduced of course, by the degree to which municipal revenues were regionalized.

11. It will be noted that equalization grants have been in no way related to Mining Tax revenues even in the first stage. This is consistent with our general philosophy that expenditures should not relate directly to a particular revenue source.

RECOMMENDATION 12:22

Upon adoption of the proposed formula for computing provincial payments to mining municipalities, the present limitation in the payment to a municipality, to 50 per cent of the total amount that would have been levied in the preceding year if no mining payment for that year had been received, be abolished. 12:22

We concur with this recommendation. When a proper formula is utilized there would be no need for minimum or maximum payments.

RECOMMENDATION 12:23

The present provision permitting the Minister of Municipal Affairs to increase the payment to a mining municipality where it would otherwise be less than the amount of the tax on mining profits that it would have collected under The Assessment Act if it were not designated a mining municipality, be repealed. 12:23

This follows from the preceding recommendation and we concur.

RECOMMENDATION 12:24

If the payment to a mining municipality within five years 12:24 from the implementation of the proposed formula would otherwise be less than the amount paid in the last year for which the present formula was applicable,

- (a) the amount payable for the first year on the new formula be equal to the payment for the last year under the old formula as adjusted for any subsequent decrease in mill rate, and*
- (b) the amount payable for the second, third, fourth or fifth year on the new formula be reduced by not more than the applicable one of the following percentages of the difference between the amount otherwise payable for the year and the amount paid in the last year under the old formula as adjusted for any subsequent decrease in mill rate:*
 - (i) for the second year, 20 per cent,*
 - (ii) for the third year, 40 per cent,*
 - (iii) for the fourth year, 60 per cent, and*
 - (iv) for the fifth year, 80 per cent.*

We agree that any reduction in payments associated with our proposed formula should be introduced over a five-year period.

RECOMMENDATION 12:25

The present provision, under which the payment to a mining 12:25 municipality may be increased to the amount paid in the preceding year, be changed to provide that:

- (a) a payment for a year that otherwise would be less than the payment for the preceding year be not less than the proportion of the preceding year's payment that the average number of resident mining employees for the three years ending with the year of payment bears to the average number of resident mining employees for the three years ending with the year preceding the year of payment;*

- (b) *for the purpose of the above, where the payment for the preceding year had been increased in accordance with the transitional provision previously recommended, the payment for that year be deemed to be the payment that would have been made if it had not been so increased; and where the mill rate used in computing the payment for the year is less than that used in computing the payment for the preceding year, the payment for the preceding year be deemed to be the amount that it would have been if the current mill rate had been applicable; and*
- (c) *where under the transitional provision previously recommended, the payment to the municipality would be greater than that under the above provision, the greater amount be paid to the municipality.*

We reject this recommendation. It has been rendered unnecessary by previous recommendations.

RECOMMENDATION 12:26

The provincial authorities assess the value of all mining structures exempt from property and business taxes imposed by municipalities and school boards. 12:26

We endorse this recommendation. It is our understanding that the Department of Municipal Affairs has commenced the assessment of mining structures now exempt from property and business taxes.

RECOMMENDATION 12:27

The present provision in The Assessment Act exempting "buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant" be amended so as to indicate clearly the properties that are exempt and those that are taxable. 12:27

Recommendation 12:27
Dissent 1: Recommendation 12:11
Dissent 2: Recommendation 12:13

We endorse this recommendation. We are of the opinion that the present provision in the act is ambiguous. These terms should be more precisely defined.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS

IN CHAPTER 12

DISSENT 1: RECOMMENDATION 12:11

Messrs. Pilkey and Lawlor stated:

1. That we agree basically with the principle of eliminating most exemptions from municipal taxes, but we question the proposal that municipal taxes on hospitals be charged to the Ontario Hospital Care Insurance Plan if this is in any way, directly or indirectly, immediately or remotely possible. In our view this is relieving one regressive tax, the property tax, by a more regressive tax, the hospital insurance premium, which bears absolutely no relation to ability to pay.

2. We greatly fear that any further increase in the already high level of hospital insurance premium will lead more and more persons who are not compelled to join the Plan (by virtue of their not being employed in firms of 15 employees or more) to drop their coverage. With the present rates of care running as high as \$45 a day, any illness will be disastrous for these people opting out of the Plan.

3. We therefore can support this recommendation only if it is spelled out that the added cost to the hospitals will come entirely out of an increased provincial government grant to the Ontario Hospital Care Insurance Plan and not result in higher premium payments.

DISSENT 2: RECOMMENDATION 12:13

Messrs. Trotter and Breithaupt stated:

Dissent 2: Recommendation 12:13

1. Places of worship and land used in connection therewith, should be exempt under both the Assessment Act and the Provincial Land Tax Act. In addition, religious seminaries not classed as institutions of higher learning or as private schools should also be exempt. It should be emphasized that places of worship already pay local improvement charges under the Local Improvement Act.

2. Revenues can be obtained by either the proposal of the Smith Committee or of this Committee to cover the servicing costs of police and fire protection, garbage collection and sewage charges for these properties. We believe that on a strictly financial basis they are far less important to a community than the great increase in welfare and social service costs which would ensue if the churches were not carrying on their programs. The charitable and educational benefits received by many of the citizens of a community through a religious organization more than offset the present losses of tax revenues to the community.

3. Increased taxation would be a severe burden on many churches, synagogues and other religious groups with small congregations in Ontario; especially in the older sections of our larger cities. It may be argued that places of worship with small congregations should be closed or amalgamated. Whatever the merits of this proposal, such decisions should be left to the religious organizations concerned. Government tax policy should in no way be used as a club to force any place of worship to close.

4. The Smith Committee and this Committee have not given due recognition to the direct and indirect benefits which the churches and synagogues afford to our society. These are not only in community service work but especially in the teaching of a way and quality of life that has been and continues to be an essential ingredient of our Province. The position and contribution of the churches and synagogues in Ontario and in Canada have been unique and they stand above and apart from other organizations such as hospitals, social clubs and universities.

5. In most instances where the Smith Committee has recommended that taxation exemptions be terminated, government grants would replace the exemptions. Places of worship would not receive grants or subsidies --- nor should they. In its

Dissent 2: Recommendation 12:13
Dissent 3: Recommendation 12:21

report the Smith Committee says : "The tradition of tax exemptions has ensured impartiality in the assistance provided to religious bodies by the State." This impartiality should remain undisturbed.

DISSENT 3: RECOMMENDATION 12:21

Messrs. Trotter, Deacon and Breithaupt made the following statements. (Note that the numbers refer to paragraphs in the Select Committee text and that, where there is no dissent with that particular paragraph, this is noted.)

1. No dissent.

2. While this has merit in the Ontario Foundation Tax Plan for the purposes of education, the Smith Committee concept of fiscal impairment is neither sound nor reasonable when applied to municipal government, especially the government of Mining Municipalities.

3. No dissent.

4. Under normal circumstances, workers contribute to municipal revenues in two ways: directly, by way of property taxes on their homes, and indirectly, through business and property taxes, levied through their employers on their places of work. But, because mines below ground cannot be assessed equitably in the normal manner, Mining Municipalities are deprived of this second important source of revenue which, throughout the Province, amounts to about 150% of the revenue received from residential property taxation. Thus the concept of Miner Equalization Payments based on the total residential assessment of the miners residing in the municipality has validity.

5. No dissent.

6. No dissent.

7. Although fiscal impairment in Mining Municipalities is

Dissent 3: Recommendation 12:21

caused by the lack of normal business and property taxes on the mines, as discussed above, municipalities in other parts of the Province frequently find themselves "fiscally impaired" when they permit substantial development of low-cost housing. Such fiscally unfortunate, though socially commendable situations, also have need of assistance.

8. The equalization payment to a fiscally impaired municipality should be computed by applying the mill rate to an appropriate percentage factor of that portion of the residential assessment which is causing the fiscal impairment.

9. We recommend that the following formula be implemented:

Each municipality in which a miner resides be paid a miner equalization payment by applying the mill rate to 150% of the total residential assessment of the resident miners of the community.

This principle could be used in implementing a program of incentive assistance during the adjustment period in municipalities designated by the Province as requiring major low-cost housing development.

10. Implementation of a "fiscal-impairment-based" subsidy for municipalities would decrease the incentive for soundly balancing the development of qualifying municipalities. If the efforts of the three levels of government fail over a period of several years to provide a municipality with an economic reason for its existence, it is foolhardy to think that a fiscal impairment subsidy will provide citizens with more than an atmosphere of "living on the dole". Mining municipalities contribute substantially to the economic well-being of the Province and they warrant a fair share of the contribution they make. Other municipalities, for reasons cited above, may warrant assistance over an adjustment period to give them sufficient time to achieve a reasonable assessment balance. But the "fiscal impairment" concept should not be extended beyond providing adequate educational opportunity for children. Mature, responsible people shun "the dole" and, even when severely handicapped seek to provide as much as possible through their own efforts for their own and their families' needs. Municipalities in which these people live

Dissent 3: Recommendation 12:21

do not seek nor find desirable a permanent "dole". Every incentive must be given for the responsible and capable management of the affairs of local government.

CHAPTER 13

TAXES ON PROPERTY: ASSESSMENT

RECOMMENDATION 13:1

Assessment legislation now contained in The Local Roads Boards Act and The Provincial Land Tax Act be transferred to The Assessment Act and made uniform in so far as possible with the corresponding provisions of that Act; and 13:1

- (a) in a district where a district assessor has been appointed, responsibility for assessing in a local roads area be assigned to the district assessor,*
- (b) responsibility for assessing for provincial land tax purposes be assigned to the Assessment Branch of the Department of Municipal Affairs, and*
- (c) the required level of taxation within each provincial land tax region be calculated annually with due regard for the Province's cost of providing that region with services ordinarily provided by local government.*

We endorse this recommendation as a step toward fairer and better co-ordinated assessment operations throughout the Province. Under section (b) of this recommendation, however, we think that assessing should continue be the responsibility of the district assessor if there is one. This would be consistent with the procedure under (a). We recommend therefore inserting the words "to the District Assessor, where there is one and, if not," between the words "assigned" and "to". Amended, Recommendation 13:1 reads.

Assessment legislation now contained in The Local Roads Boards Act and The Provincial Land Tax Act be transferred to The Assessment Act and made uniform in so far as possible with the corresponding provisions of that Act; and

- (a) in a district where a district assessor has been appointed, responsibility for assessing in a

local roads area be assigned to the district assessor,

- (b) responsibility for assessing for provincial land tax purposes be assigned to the district assessor, where there is one and, if not, to the Assessment Branch of the Department of Municipal Affairs, and
- (c) the required level of taxation within each provincial land tax region be calculated annually with due regard for the Province's cost of providing that region with services ordinarily provided by local government.

RECOMMENDATION 13:2

Real property used for transportation or communications enterprises be assessable on the same basis as other real property; and 13.2

- (a) *the responsibility for assessing the properties of transportation and communications enterprises that overlap local assessment jurisdictions be assigned to the Assessment Branch of the Department of Municipal Affairs, and assessments of such properties be subject to appeal by the local taxing jurisdictions within which they are situated, and*
- (b) *the Assessment Branch be empowered*
 - (i) *to assess other transportation and communications properties at the request of the responsible local jurisdiction, and*
 - (ii) *to relinquish to local jurisdictions the responsibility for assessing transportation and communications properties where the extent of overlapping jurisdiction is nominal.*

Your Committee cannot accept this recommendation because of complications concerning distribution of resulting revenues and definition of real property in these industries.

Recommendation 13:2 13:3

The definition of real property set out in Recommendation 11:1 may exclude such capital as telephone wire and poles, pipe lines of gas companies, and rails and ties of rail-ways. If this were the case, this recommendation would lead to a redistribution of tax revenues among municipalities and concentration of tax liability in a smaller number of municipalities for these types of companies. For instance, telephone companies are presently assessed on the basis of gross receipts or wire mileage in every municipality in the Province. Thus, municipalities receive some tax revenue even where the telephone companies have only tax-exempt property within its boundaries. If wires and poles were exempt, only those municipalities in which the telephone companies have conventional real estate would receive tax revenue. On the other hand if poles, wires, etc. were included in the definition of real property, severe assessing problems would result.

RECOMMENDATION 13:3

The Assessment Branch of the Department of Municipal Affairs develop and promote the adoption of a plan of annual reassessment in each municipal assessment jurisdiction. 13:3

We agree with the Smith Committee that reassessment should take place annually, thus providing the taxpayers with a current and equitable tax base for each annual tax levy. We therefore accept this recommendation on condition that there should not be a physical inspection of all properties every year. Instead, we suggest an annual re-adjustment of all values using sampling techniques with a complete physical inspection at least every five years on a rotating basis. It should be noted that in nearly every city visited by your Committee, attention was drawn to the shortage of qualified assessors, a shortage that would be compounded by a plan for annual inspection. In view of this shortage, we suggest the inauguration of additional programs of instruction in Colleges of Applied Arts and Science.

RECOMMENDATION 13:4

The Province make arrangements to ensure that pertinent real property information obtained by other municipal departments and local boards, and through electrical inspections by the Hydro-Electric Power Commission of Ontario, is made available on a regular basis to municipal assessment departments. 13:4

Your Committee contends that the collection of real property assessment data should be the exclusive responsibility of the municipal assessor and that the information required should be obtained in a completely open manner. We therefore reject this recommendation.

RECOMMENDATION 13:5

County assessment equalization be replaced immediately by provincial assessment equalization. 13:5

Your Committee endorses this recommendation as a useful and necessary step in the attempt to achieve equitable assessment at current value.

RECOMMENDATION 13:6

Provincial equalization reports show separate index figures for each local municipality and for each major property classification within the municipality and denote the number of properties used in computing each index. 13:6

We endorse this recommendation as essential to an adequate provincial equalization service. This recommendation would minimize inequalities in assessment levels among the municipalities in Ontario.

Recommendation 13:7 13:8
Dissent 1: Recommendation 13:2

RECOMMENDATION 13:7

*The Assessment Branch publicize the effect upon mill rates 13:7
of each municipal reassessment at present value.*

Your Committee endorses this recommendation as a method of preventing concealed tax increases by way of reassessment.

RECOMMENDATION 13:8

*The costs incurred by a municipality in completing an 13:8
initial reassessment at market value be reimbursed by the
Province to the extent of
(a) all of the extraordinary costs, or
(b) 50 per cent of the total costs,
whichever is the greater.*

We concur with the Smith Committee that reassessment by municipalities on the basis of actual value be mandatory and that it be accompanied by generous financial assistance from the Province to defray a substantial portion of the cost of reassessment.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN CHAPTER 13

DISSENT 1: RECOMMENDATION 13:2

Mr. Deacon stated:

1. There is inconsistency in rejecting Recommendation 13:2

Dissent 1: Recommendation 13:2

on the basis of "a redistribution of tax revenues among municipalities and concentration of tax liability in a smaller number of municipalities for these types of companies". Telephone companies would be relieved through Recommendation 13:2 of a special tax they pay on an assessment which is based on gross revenues. However, redistribution of revenue was not cause for concern when the special category under which breweries and distilleries have been assessed at 150% of value was abolished, by the Select Committee's approving Recommendation 11:16. Telephone companies now pay the following municipal taxes:

1. Business and property tax on their land and buildings lying within the municipality.
2. Business and property tax on lines passing through municipalities which they do not serve.
3. Business tax based on the mill rate being applied to a stipulated percentage of gross telephone receipts in municipalities they serve. This tax is in lieu of the mill rate being applied to the assessed value of the poles, lines, and conduits on public rights of way.

2. If this basis is fair for poles, lines and conduits of telephone companies, it should be fair for other utilities who have poles, lines and conduits on public rights of way, including electric companies. If not, the gross receipts tax should be abolished. Although electric companies in the Province are almost entirely publicly owned, the telephone companies are almost entirely investor-owned. They are entitled to include municipal and other taxes in their costs, and therefore this tax on gross receipts is passed along by the company to the telephone user. Why should telephone users have to pay for having poles, wires and conduits on roadways, while power users are exempt? Both should either pay on the gross receipts basis above or through assessment of the poles, wires and conduits; or, alternatively, telephone users should be relieved of this tax burden as are power users.

CHAPTER 14

TAXES ON PROPERTY: COLLECTIONS

RECOMMENDATION 14:1

The fiscal year of municipalities, school boards and other local boards end on March 31 of each year. 14:1

Your Committee agrees with many of the delegations which asserted that the cost in terms of inconvenience negate this recommendation. It is now almost standard practice, both in Ontario and across Canada, to end the municipal fiscal year as of December 31. Continuing this practice not only eliminates inconvenience, but also facilitates comparisons between municipalities.

RECOMMENDATION 14:2

Statutory provision be made: 14:2

- (a) requiring local municipalities and school boards to adopt their annual estimates and strike their tax rates by March 31 of each year;*
- (b) setting appropriate earlier dates for completion of the county and metropolitan estimates and for submission of the estimates of other local boards and commissions; and*
- (c) subjecting the local authorities concerned to appropriate penalties for non-compliance.*

We agree with the Smith Committee that there should be a prescribed timetable for the preparation of annual estimates and the striking of mill rates. If these deadlines are met a similar uniform billing procedure could be adopted. We suggest that the enforcement regulations are too severe, at least initially, and recommend deleting section (c) of the recommendation. We also recommend that the Province inform municipalities about the amount of their provincial grants by March 1 to facilitate a March 31 deadline for striking the mill rate. We thus amend the recommendation to read

as follows:

Statutory provision be made:

- a) requiring local municipalities and school boards to adopt their annual estimates and strike their tax rates by March 31 of each year; and
- b) setting appropriate earlier dates for completion of the county and metropolitan estimates and for submission of the estimates of other local boards and commissions.

RECOMMENDATION 14:3

The Province encourage expanded use of instalment tax billing with a view to the eventual establishment of a mandatory province-wide instalment system. 14:3

Your Committee endorses this recommendation, noting that most municipal taxes are collected at the present time using some method of instalment tax billing procedure.

RECOMMENDATION 14:4

Councils and school boards be authorized to fix interest on overdue taxes in respect of the current or previous years at a rate not less than 6 per cent per annum compounded semi-annually. 14:4

We endorse this recommendation which would provide municipalities with revenue to pay the interest costs on moneys borrowed to offset delinquent tax payments.

RECOMMENDATION 14:5

The owner of a business property be made responsible for the collection and remittance of municipal and school taxes 14:5

levied in respect of business assessments on his tenants, and be made liable for such taxes that he fails to collect; and the business property be subject to lien for any such taxes that are not paid.

At the present time, the business tax is levied against and collected from the occupant of the business premises. The effect of this recommendation is to make the landlord responsible for the collection and remittance of his tenants' business tax. While we sympathize with the Smith Committee's concern over the amount of business tax which is not collected, we reject the recommendation that property and business tax should be placed on the same footing by making unpaid business taxes a lien on the property. We reject this recommendation on the grounds that it would subject the landlord to undue hardship. We cannot see why the landlord should be responsible for the business tax obligations of a tenant.

RECOMMENDATION 14:6

The present provisions for collection of overdue taxes by county treasurers be replaced by new arrangements under which local municipalities or school boards may contract with the county for the use of its office services in collection of their current and past due taxes. 14:6

We are in general agreement with this recommendation. We recommend, however, that the words "or school boards" be deleted because the requirement that school boards collect their own monies would lead to a proliferation of tax bills and collections. (See our discussion of Recommendation 20:10). The amended recommendation reads as follows.

"The present provisions for collection of overdue taxes by county treasurers be replaced by new arrangements under which local municipalities may contract with the county for the use of its office services in collection of their current and past due taxes."

RECOMMENDATION 14:7

*The tax sale procedures of The Assessment Act be abolished 14:7
and replaced for all municipalities by the tax arrears certifi-
cate registration system now provided in The Department of
Municipal Affairs Act.*

We endorse this recommendation because the tax arrears certificate method of dealing with delinquent taxpayers is simpler and cheaper than the tax sale procedures of The Assessment Act.

RECOMMENDATION 14:8

*Transfer of title to a municipality under a tax arrears certifi- 14:8
cate take effect and be made final one year from the date of
registration.*

We endorse this recommendation which follows directly from Recommendation 14:7. Its purpose is to overcome a major defect of both the tax sale and tax arrears certificate method: namely, the large measure of uncertainty regarding title which results from the 12- month definite, and frequently a further indefinite, redemption period. With this recommendation, municipal title becomes absolute one year from registration, regardless of the time taken to dispose of the property.

RECOMMENDATION 14:9

*By-laws cancelling any taxes as uncollectible be given read- 14:9
ings at two regular meetings at least 14 days apart.*

We endorse this recommendation, the effect of which is to provide adequate safeguards against the abuse of the regulation permitting cancellation of uncollectible taxes.

RECOMMENDATION 14:10

Any large units of local government that may be formed in 14:10 the future be given the responsibility for administration of billing and collection of its own taxes and those of the municipalities and school boards within their territories.

Your Committee agrees with this recommendation which enables larger administrative units to do the billing and collection for its member municipalities thereby reducing the administrative costs.

CHAPTER 15

SPECIAL CAPITAL LEVIES

AND DEVELOPER CHARGES

1. This chapter of the Smith Committee's report dealt with the way in which costs of certain municipal capital improvements can be charged against the benefitting properties. At present, the two major ways of financing such major municipal services are by special capital tax levies against benefitting properties, or, in the case of new subdivisions, through a subdivision agreement whereby the developer bears all or some of the cost of servicing his lots. Because of the emphasis which these two methods place on the benefits-received principle of taxation, the Smith Committee found them superior to a general property tax for this purpose.

2. The Report pointed out that various projects to be financed by special capital levies are initiated at present under a maze of procedures contained in nine statutes. The two most important of these are The Local Improvement Act and The Municipal Act. From this labyrinth of procedures, a trend toward initiation by municipal councils, rather than by ratepayers' petitions, is emerging. There is little guidance to lessen the confusion in either the statutes or the regulations concerning the apportionment of costs of capital projects between the benefitting taxpayers and the community at large. On average, municipalities absorb about 45 per cent of the total cost of capital improvements. The Local Improvement Act does stipulate that certain charges, such as costs for oversized services, must be borne by the municipalities. The Municipal Act makes no such stipulation. Present legislation give municipalities a wide choice of methods for calculating special capital levies so that costs can be levied against defined areas on the basis of assessed value, against abutting properties on a foot frontage basis, or against non-abutting but benefitting properties. Inequities are inherent in each of these rules and adjustment procedures for recognized inequities are discretionary.

3. The procedure for appeals on special capital levies is likewise complicated by the multiplicity of statutory provisions. On grounds of equity and efficiency, the Smith Committee recommended that the assessment appeals procedure recommended in Chapter 25 be applied to special capital levy appeals, with such modifications as particular circumstances

Special Capital Levies
And Developer Charges

may warrant.

4. Special capital levies are growing in importance and the Smith Committee did not oppose this trend because it is grounded in the principle of benefits-received. If this method of financing were to remain important, however, considerations of uniformity, equity and efficiency would dictate a rationalization of these procedures. The present multiplicity of procedures, the Smith Committee said, is illogical and confusing. It recommended the development of a clear and consistent policy governing the use of special levies.

5. In addition to special levies, responsibility for financing local improvements has been shifted more and more to land developers through subdivision agreements. The object is to recoup a large portion of direct and indirect costs of supplying new subdivisions with municipal capital services. In the beginning such agreements were a necessary condition to municipal co-operation for registering a subdivision plan. More recently, they have become a prerequisite also to approval of the subdivision plan by the Minister of Municipal Affairs.

6. As the Report noted, the overriding importance and advantage of requiring subdividers to assume responsibility for capital improvements is that the financing takes place through private borrowing, thus leaving unaffected the municipalities' borrowing capacity for other projects. Moreover, this practice has strong ethical appeal, being founded on the benefits-received principle. While the developer initially pays the entire cost of the services, he ultimately recovers some or all of his outlay in the sale price of the lots. Supply and demand conditions will determine the extent to which the cost can be shifted to the home-buyer. While special capital levies may be important in older urban areas, developer-financing of local services is the usual method of meeting this type of expense today in expanding municipalities.

7. In addition to payment for specific services, some developers may be required to make lump-sum payments which may or may not be earmarked for specific projects relating to the development in question. This forces the subdivider

Special Capital Levies And Developer Charges

to share in the cost of services located outside the subdivision. Some municipalities even demand direct aid from developers for trunk sewers, and similar facilities.

8. Despite the obvious advantages of subdivision agreements there are a number of disadvantages which are described by the Smith Committee. A major criticism is that the municipalities, in their eagerness to exploit this new source of financing, have tended to be too demanding of developers. While the Minister can require subdivision agreements, his ability to restrict their severity is not clear. Moreover, municipalities have tended to demand more elaborate services for subdivisions than they themselves would be willing to provide for the community at large. The cost of new houses may be increased unnecessarily. Furthermore revenues gained through developer agreements may reduce the subsidy for which municipalities are eligible under grant provisions such as those of The Highway Improvement Act.

9. It was the Smith Committee's opinion that subdivision agreements are a suitable means of supplementing the ability of municipalities to finance the extension of urban services. The appropriateness of such procedures lies in two questions: Are they related directly to benefits received? Is the increase in land prices an equitable form of cost recovery? The Smith Committee stated that these questions were too broad for them to answer so it recommended only general guidelines to sound policy, leaving it to others to provide the details.

10. The Smith Committee made nine recommendations concerning special capital levies and developer charges. Six dealt specifically with levies which were generally concerned with reducing the multiplicity of initiating and assessing procedures. The others, dealing with developer charges, sought generally to provide the Province with more control over the content and the severity of these agreements. These nine recommendations are set forth below, followed by your Committee's recommendations and comments.

RECOMMENDATION 15:1

The legislative authority for financing capital works through special levies be consolidated in a single statute, and the procedures be simplified and made as uniform as possible. 15:1

The Smith Committee argued that the current multiplicity of procedures is illogical and confusing. Numerous anomalies exist regarding objections and appeals, exemptions and allocations of costs. Your Committee concurs with the recommendation because it would simplify procedures and eliminate many of the weaknesses in the present system.

RECOMMENDATION 15:2

Both the municipal council and the taxpayers concerned be given the right of initiative for all kinds of capital levy projects. 15:2

Your Committee endorses this recommendation because it reinforces the present trend toward initiation by municipal councils of projects which are no longer considered luxurious or local while still providing for initiation by citizens of what might be considered extra amenities with entirely local benefits.

RECOMMENDATION 15:3

Whenever a council initiates a special capital levy project, a sufficient opportunity be provided for the affected taxpayers to petition against the work and the council be required to reconsider the project if a petition meeting statutory requirements has been lodged against it. 15:3

Your Committee rejects this recommendation in the belief that adequate provisions already exist for appeal to the Ontario Municipal Board and that superfluous appeal provisions could become a form of harassment of municipal councils by well-organized minority groups.

RECOMMENDATION 15:4

Of all classes of property, only transportation and communications properties, such as pipe lines, railway lines, and telephone and telegraph lines, be exempt from a special capital levy, but such exemption not apply to those particular properties that will be benefited by the project for which the levy is to be made. 15:4

Your Committee endorses this recommendation which would narrow the list of properties exempt from special capital levies. Inclusion of a broader group of properties is rationalized on the grounds that special capital levy projects have a strong benefit relation with nearly all classes of real property. Those properties remaining exempt in this recommendation would not usually benefit from special levy projects.

RECOMMENDATION 15:5

Provincial legislation classify the municipal capital works eligible for financing by special capital levies and specify the form of levy for each category that will achieve the most equitable apportionment of the cost. 15:5

This recommendation is closely allied to Recommendation 15:1 which recommends the consolidation of special capital levy procedures in one statute. In keeping with the benefits principle, provincial legislation should classify the form each special capital levy is to take and the appropriate division of costs among benefitting properties. Your Committee therefore endorses this recommendation because it would require the statutes to specify in detail the entire range of municipal capital undertakings suitable for special capital levy financing.

RECOMMENDATION 15:6

Provincial legislation require each municipality proposing to use special capital levies to pass a special assessment by-law which defines both the intended use to be made of the levies and the proportion of the total cost of each category of works that is to be financed by them. 15:6

This recommendation is closely related to the one preceding. Your Committee endorses it because it would require municipalities to formulate policy by by-law.

RECOMMENDATION 15:7

Provincial legislation set precise limits within which the terms of subdivision agreements may be drawn, and require the filing of such agreements with each proposed plan of subdivision so that the Province may satisfy itself that the terms of each agreement are within the law. 15:7

We agree that the Province should prescribe guidelines establishing the terms and conditions permitted in subdivision agreements. The provision for filing such agreements for the perusal of the Province would create excessive demands, however, on the Department of Municipal Affairs with the possibility of delay. We recommend, therefore, that this recommendation be ended with the word "drawn", being amended to read as follows.

"Provincial legislation set precise limits within which the terms of subdivision agreements may be drawn."

RECOMMENDATION 15:8

Cash imposts on developers for unspecified purposes, or for purposes other than the recovery of the cost of allowable municipal service installations or extensions, be prohibited. 15:8

Your Committee is in agreement with this recommendation, but we contend that it should not be necessary that the purposes of the cash payments be described too narrowly.

RECOMMENDATION 15:9

The imposition by a municipality of conditions for land development relating to the per-capita assessed value of subdivision property and proportions of residential, commercial and industrial assessment, other than those provided in its planning, zoning and similar land-use by-laws, be prohibited. 15:9

1. We endorse this recommendation. We are concerned with the financial position of many municipalities resulting from an imbalance between residential and business development but we think that sub-division agreements should not be used to perform what should be primarily a planning function. If zoning and land-use by-laws allow a particular development, that development should not be rejected for reasons of assessment balance alone.

2. Because of the commendable concern of municipal councils to avoid the financial strain which sometimes accompanies low-cost housing development, the Province should consider some form of financial incentive in areas which it designates for a major development of such housing. One method would be the equalization grant program outlined under Recommendation 12:21. Such assistance would terminate as subsequent industrial and commercial development restores the municipality's taxation base to a sound level.

CHAPTER 16

THE POLL TAX

RECOMMENDATION 16:1

*The right of Ontario municipalities to levy poll tax be 16:1
repealed.*

This recommendation has been enacted by the Legislature
and we concur in this action.

CHAPTER 17

LOCAL NON-TAX REVENUES

1. This chapter dealt with three types of municipal revenue: licence and permit fees, user fees and charges, and income from revenue-raising business enterprises. These are related because each represents payment for a direct benefit conferred by a particular municipal agency and each has a benefits-received justification. Considerations of equity, consistency and rationality affect the treatment of all three classes.

2. The Smith Committee's major concern, with respect to licence and permit fees, was that they not be levied for the sole purpose of raising revenue. In the opinion of the Smith Committee the amounts collected should be based on the cost of providing the service, conveying the right or maintaining the desired degree of regulation and control. When cost-recovery is not the criterion by which fees are set, amounts may be arbitrarily and artificially set for political or other reasons. Often a municipality will charge what the traffic will bear, in which case the fee becomes a supplement to taxation rather than a levy related to benefits received.

3. Licence and permit fees represent less than 1% of gross municipal revenues but their use is widespread. This is not a major source of revenue but the degree to which municipalities use their licensing powers and the fees which they charge vary greatly across the Province.

4. We agree with the Smith Committee that licence and permit fees can be justified only when there is reason for exercising some governmental control and that these costs ought to be recovered from the benefitting licensee when there is some expense involved. Requiring a licence when there is no need for one is undesirable discrimination, whether for revenue purposes or not. We do not subscribe, however, to the Smith Committee's view that the only justifiable level of fees is that which covers the costs, direct and indirect, of licensing and supervision. In the Smith Committee's opinion the only departure from average cost pricing should occur when licensing deliberately restrains trade for broader social purposes in which case the community is entitled to charge a higher fee to recapture the monopoly profit it has conferred on the licensee. We differ from the Smith Committee because we would permit some use of licensing as a revenue-raising device, although we caution against abuse of this source.

Local Non-Tax Revenues

5. User fees and charges result from those minor services available from the municipality or its local boards, which services do not lend themselves to being structured in self-contained enterprises. These are generally non-recurring services, such as tree-pruning or unstopping of drains on private property by the Public Works Department. Such fees and charges contribute less than 2% of local revenue but their application and use varies widely across the province.

6. The Smith Committee's major concern in this area was that most municipalities have little knowledge of the costs of such services and are unable to follow a rational pricing policy. While cost recovery may or may not be the object of policy in this regard, no policy can be properly formulated without knowing the cost of providing the services. We therefore concur with the Smith Committee's recommendations that the Province provide assistance to municipalities in computing these costs.

7. Revenue-earning enterprises, which include public utilities, hospitals, cemeteries, and recreational facilities, provide the municipalities directly or indirectly with a very large sum of money, estimated to be approximately \$500,000,000. These enterprises sell services of a commercial nature and all or much of the cost is recovered by charging the users. They are usually operated separately from the municipal corporation, and are sometimes subsidized by the taxpayer.

8. The Smith Committee was primarily interested in developing equitable, consistent and rational pricing policies for these municipal enterprises. The Report noted that it is sometimes difficult to establish the amount of user charges on the basis of benefits received. An example is sewage service, which would have to be metered to assure a distribution of costs based on use. As it is, some municipalities, including Toronto, do not meter water. In effect, flat rate charges amount to taxing the service in a way that is invisible, perhaps capricious, and often regressive. Moreover, controversy exists as to whether surplus revenues should be turned over to the municipal treasury. In practice substantial surpluses have been realized which have been expended on capital acquisitions. Many such municipal enterprises in Ontario have no debt and finance capital expenditures out of current revenues. We agree with the Smith Committee that, since the municipality must bear any losses, it should determine the use of surpluses and the degree of subsidization. These decisions should be made in public.

Local Non-Tax Revenues
Recommendation 17:1 17:2

9. We agree with the Smith Committee also that the determination of rational policies regarding these enterprises requires maintaining separate accounts. The Department of Municipal Affairs is expanding its interest in this area and we join the Smith Committee in encouraging it to continue to do so.

10. Below are set out the eleven specific recommendations of the Smith Committee regarding local non-tax revenues, followed by your Committee's comments.

RECOMMENDATION 17:1

The Department of Municipal Affairs review the legislation enabling municipalities to license or issue permits for a fee with the object of ensuring that the purpose of the licensing is regulatory rather than the raising of revenue. 17:1

Your Committee has decided that municipal licenses should be issued primarily for regulatory purposes but that they may be revenue raising and we reject this recommendation in its present form. We do not think that licence fees should be prohibitively costly for any reason. We therefore suggest the following change of wording to add flexibility to this recommendation.

The Department of Municipal Affairs review the legislation enabling municipalities to license or issue permits for a fee with the object of ensuring that the purpose of the licensing is primarily regulatory.

RECOMMENDATION 17:2

The provisions relating to licence and permit fees in The Municipal Act and other acts be amended to provide that the amount of the fee must not exceed the estimated amount required for full cost recovery by more than approximately 20 per cent or drop below the amount required to produce approximately 80 per cent of full cost recovery. 17:2

Because of our rejection of the recommendation that licenses be not revenue raising, we reject this recommendation.

RECOMMENDATION 17:3

*Differences in the fees charged residents and non-residents 17:3
for business licences be no more than is warranted by actual
differences in the costs of regulation and supervision.*

We endorse this recommendation, agreeing with the Smith Committee that it is unreasonable to charge a non-resident an excessive licence fee in lieu of realty business tax but we agree that it may be costlier to license transients, and that this incremental cost should be recovered.

RECOMMENDATION 17:4

*Municipal licensing that is designed to limit the number of 17:4
participants in particular businesses be prohibited except
where the provincial government considers it to be justifi-
able, in which event*

- (a) it be brought under close provincial supervision, and*
- (b) the fees be set at levels that will return a significant
portion of any monopolistic profits to the local public
treasury.*

We agree with the Smith Committee that licensing for the purpose of restricting competition is generally not desirable. When restricted entry to an industry is justifiable for social or economic reasons and results in excess profits the license fee should be set at a level to recover some of that profit for the general public. We endorse this recommendation on the understanding that there would be appeal procedures for affected persons and companies. We therefore suggest inserting a third section in this

recommendation, amending it to read.

Municipal licensing that is designed to limit the number of participants in particular businesses be prohibited except where the provincial government considers it to be justifiable, in which event

- (a) it be brought under close provincial supervision,
- (b) the fees be set at levels that will return a significant portion of any monopolistic profits to the local treasury, and
- (c) there be adequate provisions made for appeals from municipal and provincial decisions.

RECOMMENDATION 17:5

The Department of Municipal Affairs assist municipalities in organizing their accounts so as to establish the cost of goods and services to which user charges apply, and in developing appropriate cost recovery policies. 17:5

We endorse this recommendation which would assist local governments to develop appropriate user charges for municipal services. When a user fee is charged, it is essential to know the cost of providing the service. While the policy may not be to implement full-cost pricing, a rational policy cannot be devised without knowing the full cost and the amount of subsidy should be clearly established. If the object is to cover all costs, then such knowledge is likewise indispensable. As the Report pointed out, underpricing is often the result of ignorance of true costs and of failure to review charges and costs at appropriate intervals. We emphasize that this discussion should not be inferred to mean that we favour full pricing of municipally-provided services without exception. We think that each case should be decided on its merits by the responsible level of government.

RECOMMENDATION 17:6

*The Department of Municipal Affairs amend the form of 17:6
municipal audited financial statements and its Annual
Report of Municipal Statistics so that revenues from user
charges are reported as revenues rather than as undisclosed
deductions from related expenditures.*

This recommendation follows from Recommendation 17:5 and we endorse it because we agree that an explicit and specific accounting of revenues from user charges is necessary to reveal the extent of costs and subsidies affecting users and taxpayers.

RECOMMENDATION 17:7

*The Department of Municipal Affairs collect and publish 17:7
comprehensive financial data relating to all municipal
revenue-earning enterprises.*

We agree with the Smith Committee that rational, comprehensive and consistent policy proposals for financing such enterprises can only be made on the basis of published reports giving the number, nature and extent of municipal revenue-raising enterprises, and comparable information regarding revenue-raising and cost-revenue relationships. The Annual Report of Municipal Statistics is not adequate and we emphasize the need for comparable and useful municipal statistics in all areas. In endorsing this recommendation, we recommend that municipal revenue-raising enterprises be required to use a prescribed form of accounting to permit comparisons between the enterprises of various municipalities by the municipalities, the Province and the public. These standard accounting reports could then be published in booklets each dealing with a particular function for fuller scrutiny by the taxpayers.

RECOMMENDATION 17:8

The Department of Municipal Affairs define "municipal revenue-earning enterprises" and require separate fund accounting of their operations whether or not they come under the immediate control of some special-purpose body. 17:8

We endorse this recommendation with the understanding that the accounts of revenue-raising enterprises would reveal all assets employed including those owned by the municipality but used by the enterprise. In accepting this recommendation, we do not intend that two different bodies prescribe accounting procedures or publish financial data. The Department of Municipal Affairs should require that any revenue-earning enterprises now publishing financial data make any necessary changes to their accounting methods to ensure consistency of method within all such enterprises.

RECOMMENDATION 17:9

Necessary legislative action be taken to ensure that all municipal revenue-earning enterprises pay full taxes, including business taxes, and that they charge for all services provided by them including services supplied to parent municipalities. 17:9

We agree with the Smith Committee that revenue-raising enterprises be subject to the same municipal tax treatment as private businesses. Also they should charge parent municipalities for services rendered. To avoid misunderstanding with regard to corporation income tax, we recommend inserting the word "municipal" between the words "full" and "taxes" in the original recommendation, in order that it may read as follows.

Necessary legislative action be taken to ensure that all municipal revenue-earning enterprises pay full municipal taxes, including business taxes, and

that they charge for all services provided by them including services supplied to parent municipalities.

RECOMMENDATION 17:10

Any substantial subsidization of municipal revenue-earning enterprises from the municipal treasury, and retention by or transfer to the municipal treasuries of substantial surpluses earned by municipal revenue-earning enterprises, require annual authorization by by-law. 17:10

We agree with the principle of this recommendation which provides that transfer of funds between municipal enterprises and the municipal treasury no longer be automatic but be overt decisions of council subject to public scrutiny. We recommend also that a period of 14 days be required between readings to further safeguard against abuse. This recommendation is amended to read.

Any substantial subsidization of municipal revenue-earning enterprises from the municipal treasury, or retention by such enterprises, or transfer to the municipal treasuries of substantial surpluses earned by revenue-earning enterprises, require annual authorization by by-law; and, that such by-law be given readings at two regular meetings at least 14 days apart.

RECOMMENDATION 17:11

The Department of Municipal Affairs undertake comprehensive studies designed to evolve precise and constructive policies to guide the operation of local revenue-earning enterprises with particular reference to the form and extent of their revenues. 17:11

We endorse this recommendation which would permit a more thorough study of the revenue implications of municipal enterprises than has been possible to date.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN CHAPTER 17

DISSENT 1: RECOMMENDATION 17:10

Mr. Lawlor stated:

My remarks here are directed solely to the retention by municipal revenue-earning enterprises of substantial surpluses without annual authorization by by-law. In order that there be no ambiguity I wish to emphasize that, like the Smith Report, I include under this designation some public utilities, and especially the local or municipal electric utilities. Further, such an enterprise with an already retained surplus in excess of funded debt, might require by-law approval if it wishes to retain more than a small percentage of operating revenue calculated on a short term moving average. (Page 346, Volume II). It is almost scandalous for such operations to retain large surpluses, ostensibly to be used for building or maintenance purpose, many years in the future, when these same enterprises depend on the municipality to guarantee their borrowing, and to make good their losses. This condition is compounded when these same municipalities are forced to go begging for funds for services, school, and welfare purposes, at high interest rates, while such surplus monies lie unused or are invested elsewhere. These little islands of autonomy, with their closely and jealously held preserves, are an anachronism, and they should be brought under the general surveillance of the municipalities in which they are located.

CHAPTER 18

LOCAL REVENUE AND PROPERTY ASSESSMENT APPEALS

1. Accepting the premise that no revenue system is equitable which fails to provide simple and effective appeal procedures the Smith Committee devoted this chapter to simplifying existing complicated local appeal systems. At present, the Courts of Revision handle from 15,000 to 60,000 assessment appeals per annum. While few of these involve large sums, the principle is often of over-riding importance to the appellant. It is essential, therefore, that an appeal procedure be simple and the result certain.

2. The Report described the present state of the local appeal procedure as a "non-hierarchical contortion of four appeal levels that flounder in imprecision". The four levels are the Court of Revision, the County Judge, the Ontario Municipal Board and the Ontario Court of Appeal, the last of which is the only level empowered to hear cases that are a question of law. These courts are not hierarchical and any case brought from one before another must begin anew. Moreover, the composition of the Court of Revision can take any one of a number of forms, each of which may have a different attitude and philosophy.

3. We are in general agreement with the Smith Committee's nine specific recommendations designed to untangle the present local appeal process and replace it with a simple, certain and equitable system. The Smith Committee envisaged an administrative process which makes use of the current informal procedure employed by the Courts of Revision but which maximizes impartiality and consistency. We note that the Smith Committee did not clearly set out the powers of the Assessment Appeal Board, a most important consideration in the light of the decision of the Judicial Committee of the Privy Council in *Shell Company of Australia vs Federal Commissioner of Taxation* (1931 A.C.275) the *Quance vs Ivey* decision of the Ontario Court of Appeal (cited in the Smith Report) and the decision in *City of Toronto vs Olympia Edward Recreation Club Limited* decided by the Supreme Court of Canada in 1955 (1955 S.C.R.454). We have studied the Report of the Royal Commission Inquiry into Civil Rights and we are compelled to comment further on this part of the Smith Report at this point and under certain of the recommendations that follow.

Local Revenue and Property Assessment Appeals

4. As a result of the decision in the Olympia Edwards case, it is clear that the Court of Revision, the County Court Judge, the Ontario Municipal Board, or the Court of Appeal when sitting in appeal from an assessor's assessment under The Assessment Act cannot decide any question of law or mixed question of law and fact. This the Smith Committee noted, citing the Quance vs Ivey case. The decision in the Olympia Edwards case goes further. There is great doubt at present as to whether or not an assessor, or any of the assessment appeal tribunals, can make any decision that is binding on a taxpayer. The formulation of an amount, which the assessor or the assessment appeal tribunal states to be the amount assessable against the taxpayer's property, touches the question of what "property" it is that is assessed. This is a question of law which the assessor and the Court of Revision and the other assessment appeal tribunals cannot decide. In short, any decision made by the assessor, the Court of Revision, the County Court Judge sitting in appeal from the Court of Revision, or the Ontario Municipal Board, touches a question of law and is therefore suspect and incomplete. It is incomplete in that although an assessment is arrived at, the liability of the taxpayer for the assessment has not been determined at all.

5. It is our recommendation, therefore, that the Attorney General's Department study the problems posed by the Olympia Edwards case and the other two cases with a view to setting down with precision the powers and duties of the assessor, and the Assessment Appeal Boards which are proposed, with a view to obviating the present lack of certainty and finality surrounding the assessment function.

6. Because the majority of appeals are on small matters, it is essential that ratepayers have a forum to contest relatively uncomplicated matters cheaply, expeditiously and informally. We believe that there should be an easily-accessible non-judicial Assessment Appeal Board, skilled in matters of assessment, and guaranteeing the appellant's right to information. We further believe that the taxpayer should be ensured quick and easy access to the judicial process when a question of law makes this necessary.

7. We set out the nine recommendations in this chapter below, followed by your Committee's comments.

RECOMMENDATION 18:1

- (a) *The present Courts of Revision be replaced by one or more Assessment Appeal Boards for each city, separated town and county or any combination thereof, or any larger taxing unit that may be formed, composed of three members to be appointed for a three-year term and remunerated by the municipality;* 18:1
- (b) *Similar Assessment Appeal Boards be appointed for each district by the Minister of Municipal Affairs upon the recommendation of the local municipalities within the district; and*
- (c) *The members of an Assessment Appeal Board be persons meeting prescribed qualifications who are, or in the year prior to their term of office were, neither employees nor members of the Council of the municipality or of the Council of any other local elective body with jurisdiction within that municipality.*

1. In keeping with our introductory observations about the unsatisfactory state of the administrative process, we are of the opinion that it is most important to have a clear conception of the function of the assessor or the Assessment Appeal Board. We suggest as a possible solution to the problems now plaguing the appeal procedures, that The Assessment Act provide that the assessor be required to issue a "proposal", or a "claim" of assessment in the place of the present assessment. The taxpayer on receiving the assessor's proposal would have the right to have the proposal reviewed by the Assessment Appeal Board, and the Assessment Appeal Board would issue its own proposal. The proposal of assessment would not be a decision as to the liability of the taxpayer, but would be an assertion by the assessor or the Assessment Appeal Board as to the liability for assessment claimed on behalf of the municipality, and if the taxpayer failed to contest this assertion he would be taken to have acquiesced, and pursuant to the statute the assertion would become final and an admission of his liability. The taxpayer would then have the opportunity, for a set period of time, say 60 days, within which to contest the proposal of the assessor or the Assessment Appeal Board. Should he do so, he could apply to the County Court to have his liability fixed in the ordinary manner as is proposed by the Smith Committee in Recommendation 18:4. Should the taxpayer not contest the proposal within the

time limit, it should be statutorily provided that the proposal of assessment of the assessor or the Assessment Appeal Board would become final and binding on the taxpayer. These provisions would obviate the present shortcomings that exist whereby the assessor and the Court of Revision and the other appeal tribunals cannot determine the liability in law of the taxpayer.

2. Subject to what we have said above, we endorse this recommendation but for clarification suggest that the words "by the municipality" be inserted after the words "to be appointed". We recommend that the right of immediate re-appointment not apply but that there be a one-year period between re-appointments. Your Committee further endorses the prescribed qualifications which would not exclude non-residents. The revised wording of the recommendation is as follows:

- (a) The present Courts of Revision be replaced by one or more Assessment Appeal Boards for each city, separated town and county or any combination thereof, or any larger taxing unit that may be formed, composed of three members to be appointed by the municipality for a three-year term and remunerated by the municipality, but not to be reappointed for uninterrupted consecutive terms;
- (b) Similar Assessment Appeal Boards be appointed for each district by the Minister of Municipal Affairs upon the recommendation of the local municipalities within the district; and
- (c) The members of an Assessment Appeal Board be persons meeting prescribed qualifications who are, or in the year prior to their term of office were, neither employees nor members of the Council of the municipality or of the Council of any other local elective body with jurisdiction within that municipality.

RECOMMENDATION 18:2

A taxpayer who has filed a notice of appeal to an assessment have the statutory right to examine, personally or through an agent, all the material used to establish the assessment subject to objection. 18:2

We agree with the Smith Committee that the ratepayer should be entitled by right rather than by grace to access to all of the evidence available to establish the assessment in question. We therefore endorse this recommendation.

RECOMMENDATION 18:3

Provision be made so that, if the work of the Assessment Appeal Board of a municipality cannot be processed within the statutory time, the municipality may appoint a temporary Board or enlist the services of a Board from another municipality. 18:3

We endorse this recommendation.

RECOMMENDATION 18:4

Jurisdiction in all matters in dispute relating to municipal property and business tax arising from any assessment, levy or administrative act and from any decision of the Assessment Appeal Board be given to the County or District Court. 18:4

1. We endorse this recommendation because it would solve in part the problem posed by the decision in the Olympia Edwards case and the other two cases cited in our introductory remarks. We note, furthermore, that this recommendation would provide the taxpayer with quicker and cheaper access to the Courts of Law in matters of assessment appeals.

2. We recommend that the municipalities have the right of appeal to the County or District Courts on the same basis as the taxpayer.

RECOMMENDATION 18:5

*The federal government be requested to appoint additional 18:5
County Judges at large to specialize in assessment appeals.*

We endorse this recommendation which would introduce a greater degree of continuity and efficiency into assessment appeals. Trial judges would have special experience in assessment cases, thereby improving appeal procedures and decisions.

RECOMMENDATION 18:6

*No costs be charged on any appeal before the proposed 18:6
Assessment Appeal Board.*

We agree with the spirit of this recommendation that every one should be responsible for his own costs at this level but that there should be no fee charged for a hearing before the proposed Board. For clarification we reword this recommendation to read as follows.

No fees or costs be charged or awarded by
the proposed Assessment Appeal Board on
any appeal before it.

RECOMMENDATION 18:7

*Statutory direction be given that costs as between a solicitor 18:7
and his client are to be awarded to the appellant and against
the municipality in all appeals before the County or District
Court unless the Court considers that the appeal is frivolous
and vexatious or that the appellant previously has withheld
pertinent evidence.*

While we agree with the principle that the judicial appeal process is an extension of the collection arm of the municipality and that costs should generally not be

borne by the appellant ratepayer, we cannot accept this recommendation in its present form. We recommend that costs be awarded only on a party and party basis, rewording the recommendation to read as follows.

Statutory discretion be given to the County or District Court to award costs on a party and party basis to either the appellant, or to the municipality in the event of a frivolous or vexatious appeal.

RECOMMENDATION 18:8

Existing high school district and county equalization appeal procedures be repealed and the appeal procedures recommended for other property and business tax matters be made applicable. 18:8

We endorse this recommendation which would avoid the multiplicity of forums to which equalization appeals can now be taken.

RECOMMENDATION 18:9

The right to apply for tax relief on the grounds of sickness or extreme poverty be withdrawn. 18:9

We cannot accept this recommendation. We can readily imagine a case where an elderly homeowner might need tax relief but would be unwilling to go on the welfare rolls for reasons of pride. We suggest the present system be continued because it has not been subject to abuse.

CHAPTER 20

SCHOOL FINANCE

1. The expenditure of more than a billion dollars on primary and secondary school education in Ontario is met almost entirely by a combination of local property taxes and provincial grants to local school boards. This chapter of the Smith Committee Report was devoted to a discussion of the present use of these two sources and to recommendations intended to improve the present system.

2. Because property taxation has already been thoroughly dealt with in earlier chapters, the bulk of this discussion was centered on provincial grants. It will be remembered that in Chapter 8, the Smith Committee recommended a further extension of provincial financial participation in education increasing to an average level of support of 60 per cent of local school board expenditures. We consider the present system, modified by some of the Smith Committee's recommendations, as a flexible vehicle for providing support whatever level is decided on.

3. We agree with the Smith Committee that the Ontario Foundation Tax Plan (OFTP) of 1964 (since amended) is a sound system, providing a flexible, sophisticated and yet simple scheme for handling the important task of school financing. Because the recommendations are designed to strengthen rather than supplant the OFTP, we explain this plan briefly.

4. For operating expenses, the plan offers an integrated scheme combining a basic tax relief grant and an equalization grant. The basic tax relief portion is a flat dollar amount per average daily enrolled pupil. In 1967 this was \$85 per pupil per year for elementary schools, \$125 for continuation schools, \$190 for academic high schools, and \$265 for vocational high schools. The equalization grant takes the tax relief grant as a point of departure and makes use of two additional pieces of information. Foundation mill rates of 3.5 mills for elementary schools and 2 mills for high schools are applied to the school board's equalized taxable assessment (based on computed actual value) producing the yield of a standard local fiscal effort for that board. The second datum is a foundation level of annual operating costs per pupil of average daily enrolment. These are presently set at \$260 (elementary), \$330 (continuation), \$450 (academic high), \$580 (vocational high). The equalization

School Finance

grant for any local school board is then calculated as the amount by which the foundation level of operating costs exceeds the sum of the board's basic tax relief grant and the yield of the foundation mill rate applied to the board's equalized taxable assessment. If this value is zero or less than zero, no equalization grant is given.

5. This formula bases grants on the financial condition of each individual board and reduces to a single equation what was previously a maze of tables and regulations. This formulation is flexible in its ability to accommodate changes dictated by future needs or policies. As the Report noted, it demonstrates "fiscal sophistication within a framework of simplicity".

6. The plan also takes into account capital expenditures and certain current expenditures heavily affected by capital undertakings. It provides a basic tax relief grant of 35 per cent on all "recognized extraordinary expenditures" and then provides an equalization grant based on equalized assessment and a growth need grant, to compensate rapidly growing boards.

7. An integral part of the OFTP is the Corporation Tax Adjustment Grant, the intent of which is to remedy the chronic fiscal deficiency suffered by many boards as a result of the terms of The Assessment Act which prevent many corporations from declaring themselves separate school supporters. The grant is designed to compensate whichever school board receives a deficient share of the local property taxes paid by local corporations. This corporation assessment deficiency is calculated with reference to the relative corporation assessment per separate school pupil and per public school pupil. This reveals the relative fiscal need, rather than capacity, of the school boards. The grant is then determined by applying to the deficiency, adjusted to equalized taxable assessment, the greater of 5.5 mills or the commercial public school rate plus one mill.

8. This, then, is the Ontario Foundation Tax Plan and we agree with the Smith Committee that it should remain the backbone of the provincial educational grant structure. The Smith Committee identified four areas for improvement and offered five recommendations intended to strengthen

the plan. We endorse the Smith Committee's attempts to make more current both the calculation of pupil load and the handling of extraordinary grants. We are also in accord with the Smith Committee's desire to integrate the present multitude of separate "stimulation" grants with the OFTP.

9. While we endorse the principle that all schools should be given similar fiscal treatment, be they public or separate, we cannot support the recommendation to eliminate the Corporation Tax Adjustment Grant in favour of a scheme by which corporations would be permitted to declare the direction of their support. Our reasons will be given below when we come to discuss this specific recommendation.

10. The Smith Committee noted that the recommendations made earlier regarding the property tax (Chapters 11-14) make possible an efficient and equitable use of this tax by school boards, as well as by municipalities. In Chapter 11, the Smith Committee rejected the split mill rate which is used in several calculations required by the Ontario Foundation Tax Plan. We agree that this is an inefficient and inequitable way of distributing the tax burden, whether for schools or other municipal purposes, and we therefore support the Smith Committee's efforts to eliminate this differential.

11. We are in general agreement with the principle that the provincial government assume a larger share of the cost of education and we are opposed, as was the Smith Committee, to eliminating property taxation as a source of school finance. Public education is peculiarly well suited to local government whose autonomy depends on having an independent revenue source. As long as local government is to play a meaningful role in education, some revenue from property taxes is necessary for school support.

12. In all, the Smith Committee made ten specific recommendations affecting both the provincial and the municipal portions of school finance. We have alluded already to some of these and we deal with them in detail for each recommendation.

RECOMMENDATION 20:1

So long as school grants are on a calendar year basis, the existing practice of calculating them on the previous calendar year's pupil load be replaced by a system of calculations that reflects school enrolment in the period beginning the first school day of September of the calendar year preceding that in which the grants are paid. 20:1

We endorse this recommendation which would eliminate the present lag between a provincial grant and the single most important determinant of cost which is actual pupil enrolment. To allow for adjustments in enrolment which inevitably take place at the beginning of the school year, we recommend changing the date for determining the number of pupils used in the calculation to September 30. This would give boards time to prepare accurate statistics.

RECOMMENDATION 20:2

In the event that school finances are based on a fiscal year that coincides with that of the Province, the final school grant instalment be based on calculations of pupil load that reflect enrolment in September of the fiscal year in which the grants are paid. 20:2

We note that acceptance of Recommendation 20:1 together with our rejection of Recommendation 14:1 makes this recommendation redundant and we therefore reject it.

RECOMMENDATION 20:3

Provincial treatment of the recognized extraordinary expenditure of school boards be amended so that the grant contribution to capital expenditure is applied at the time the expenditure is incurred. 20:3

We endorse the recommendation which would reduce the burden of local debt because provincial grants would be geared to capital outlays at the time of payment.

RECOMMENDATION 20:4

In each municipality, the assessment of corporations that cannot under The Assessment Act direct their taxes for school support be segregated into a distinct allotment taxable by public and separate school boards in exact proportion to the relative pupil enrolment of the boards. 20:4

We reject this recommendation in the belief that, with further adjustment, the Ontario Foundation Tax Plan can provide a satisfactory solution to the problems of constitutional law and equity involved in the distribution of taxes to the public and the separate school systems.

RECOMMENDATION 20:5

The elementary school mill rate levied in any given year against the corporation assessment allotment be the lower of the public or separate school mill rate applicable where the property is situated. 20:5

We reject this recommendation for the same reasons that we rejected Recommendation 20:4.

RECOMMENDATION 20:6

The grants on behalf of municipal inspectors' salaries, evening courses, industrial arts and home economics instruction to non-resident pupils, library books, textbooks, small secondary schools, and televised instruction be abolished in their present form and incorporated into the basic structure of the Ontario Foundation Tax Plan. 20:6

We endorse this recommendation which would reduce the present multitude of stimulation grants and add to administrative simplicity and efficiency.

RECOMMENDATION 20:7

The existing grant for English, French and citizenship courses for new Canadians be abolished and that the Province relieve school boards of all costs arising from such courses. 20:7

The Smith Committee pointed out that the distribution of immigrants is uneven across the Province leading to disparate effects on local school board finances. In endorsing this recommendation to remove such costs from the local level we note that this is more than an educational responsibility because it involves also questions of citizenship and immigration. We suggest that the Federal government should bear part of the expense of this orientation.

RECOMMENDATION 20:8

The grants for free milk, trustees' council fees, and entering larger units of administration be terminated. 20:8

We agree with the Smith Committee that grants for trustee's council fees be terminated and we note that the grants for entering larger units of administration are no longer applicable. We also favour terminating free milk grants but we are not in favour of terminating the provision of free milk to elementary school children. We suggest therefore that the Ontario Foundation Tax Plan include a provision for universal free milk for all primary school pupils.

RECOMMENDATION 20:9

All future grants made by the Province for vocational school construction be integrated under the provisions of the Ontario Foundation Tax Plan. 20:9

We endorse this recommendation. While we agree that there should no longer be a separate plan, we do point out that new provisions integrated into the Ontario Foundation Tax Plan should recognize the higher costs associated with vocational schools, thus making provisions in the grant structure to prevent financial distortions in favour of academic schools.

RECOMMENDATION 20:10

The requisitioning powers of public school boards, separate school boards and boards of education be terminated, and that these boards levy their own taxes to be collected through bills issued for the purpose by municipalities and payable at times distinct from those at which municipal tax bills are payable. 20:10

We reject this recommendation because of the multiplicity of forms and notices that would be involved in requiring local school boards to levy their own taxes. The present system is administratively more simple and less expensive. We recommend that a standard format for tax assessment and bills be devised by the Department of Municipal Affairs for use by all municipalities which would set forth separately and clearly the costs of municipal services and the costs of educational services. We draw attention to our previous discussion under Recommendation 14:3 which encourages the use of installment billing.

CHAPTER 21

PROVINCIAL GRANTS TO MUNICIPALITIES

1. In this chapter the Smith Committee discussed provincial grants to municipalities other than grants made for schools, for hospitals or in lieu of taxes on government property, all of which have been discussed in other chapters. The Smith Committee described the present provincial grant system with the word "chaotic".

2. In this chapter the Smith Committee made thirty recommendations for expanding and improving the present grant structure. In several instances the Smith Committee recommended an increase in the level of grants and it is noted that certain of these have been enacted already by the Legislature. The Smith Committee made a strong plea for co-ordination of provincial grants with greater recognition of the fiscal impact of the grant program on local municipalities. During the course of the public hearings your Committee heard considerable criticism of the present multiplicity of grants and the resulting administrative expenses. Your Committee is in sympathy with the views expressed and thinks that the recommendations of the Smith Committee for a comprehensive annual review by the Province together with continuous reviews of the fiscal and economic condition of local governments should improve the present situation.

3. Following are the thirty recommendations of the Smith Committee, together with the comments of your Committee.

RECOMMENDATION 21:1

The Department of Highways prepare a scheme for classifying all roads in accordance with the user and local access benefits that flow from them, and assign each Ontario road and street to its appropriate class within five years of the publication of this Report. 21:1

We endorse this recommendation because we think that there should be a complete revision to the present road grant system. We were persuaded by the delegations which appeared before us that the number of road classifications

Recommendation 21:1 21:2 21:3 21:4

in any new scheme should be kept to a minimum, and we add this condition in giving our support to the recommendation.

RECOMMENDATION 21:2

*Upon the completion of the road classification scheme, 21:2
provincial road grants be based on total expenditure for
each class of road within a municipality, the percentage of
provincial aid to coincide with the percentage of user bene-
fits assigned to each class of road.*

We endorse this recommendation because it is to serve the purpose of the scheme proposed in Recommendation 21:1.

RECOMMENDATION 21:3

*Municipalities be given the right to appeal the classification 21:3
of any road first to the Department of Highways, and then
to the Ontario Municipal Board, which shall have the right
to require further studies by the Department of Highways,
and whose decision shall be final.*

We reject this recommendation because the appeal mechanism suggested is unworkable and unnecessary. The municipality has available to it the normal procedure of making further representations to the Province. We would recommend, however, that the basis on which the Minister of Highways or his department has ruled in the matter of any particular classification be made known in writing to the municipality affected.

RECOMMENDATION 21:4

*Transitional measures accompany the introduction of the 21:4
new road grants to help municipalities adjust to changes in
provincial payments, such measures to be gradually phased
out within five years of the introduction of the new grant
system.*

We endorse this recommendation in order to prevent sudden decreases in revenues as a result of the revised grant structure, particularly in those cases where the municipality is at present entitled to very high levels of support. In such cases, transitional measures should be employed to assist such municipalities to adjust to the revised grant level.

RECOMMENDATION 21:5

*While the present county road equalization scheme remains 21:5
in effect, no county be penalized for fiscal efforts that enable
it to exceed the level of defined needs.*

We endorse this recommendation. We are of the opinion that a county should not forfeit grants if it increases its own expenditure to provide a standard of service above the prescribed minimum. In fact, we think that municipalities should be encouraged to improve standards of service.

RECOMMENDATION 21:6

*Development roads be designated by the Minister on the 21:6
sole criterion of population sparsity, and a list of roads
so designated be tabled annually in the Legislature.*

We amend this recommendation by deleting the words "on the sole criterion of population sparsity", because these words introduce an undesirable limitation. The revised recommendation reads as follows.

Development roads be designated by the
Minister, and a list of roads so designated
be tabled annually in the Legislature.

RECOMMENDATION 21:7

Roads designated as development roads either be under provincial jurisdiction or, where population growth is likely, be provincially supported in such a manner that development status is phased out over a period of no more than ten years, at the end of which the road becomes an integral part of the municipal system. 21:7

We reject this recommendation and recommend that the present policy concerning development roads be continued. In those areas where there is municipal government, development roads are built by the Province and jurisdiction over them is then transferred to the municipal government.

RECOMMENDATION 21:8

A report on all special considerations giving rise to provincial road assistance to municipalities that cannot be geared to formulas be tabled in the Legislature, together with the dollar amounts of special provincial assistance involved. 21:8

We endorse the recommendation for the reasons given by the Smith Committee.

RECOMMENDATION 21:9

Provincial grants in support of child welfare services be raised to a rate of 80 per cent. 21:9

It is our understanding that the Department of Social and Family Services is implementing this recommendation and we approve.

RECOMMENDATION 21:10

The level of provincial grants for the maintenance of 21:10 inmates of municipal and approved private homes for the aged, and toward the maintenance of elderly persons in satisfactory alternative accommodation under municipal auspices, be increased to 80 per cent.

We endorse this recommendation for the reasons given by the Smith Committee.

RECOMMENDATION 21:11

The Province provide all persons who become indigent with 21:11 premium-free insurance under the Ontario Hospital Care Insurance Plan, without a waiting period.

We endorse this recommendation. Since 1964 the Province has reimbursed municipalities for 80% of their liability to hospitals for the care of indigent patients. We think that this liability should be entirely a provincial responsibility, and that the Province should accept the remaining 20% of the cost. We understand that the part of the recommendation concerning the removal of the three month waiting period has been implemented by the Department of Social and Family Services.

RECOMMENDATION 21:12

The level of provincial grants towards homemakers' and 21:12 nurses' services be increased to 80 per cent.

This recommendation has already been implemented and we approve.

RECOMMENDATION 21:13

All dollar ceilings on existing provincial grants to conservation authorities be abolished. 21:13

We endorse the recommendation because we note that the Minister would retain the power to limit grants for any project and thus be able to control the amount of the grant.

RECOMMENDATION 21:14

Grants on behalf of weed, warble fly and plant disease control be abolished. 21:14

We reject this recommendation because warble fly control is of undiminished importance to the health of farm livestock, as are weed and plant disease controls. Grants for these three items perform a necessary purpose and they should be continued.

RECOMMENDATION 21:15

All health grants to municipalities for such specific purposes as school nursing inspection, school dental services, and venereal disease clinics be terminated. 21:15

We endorse this recommendation because it would terminate certain specific health grants to municipalities in favour of the broader public health grants proposed in the following recommendation.

RECOMMENDATION 21:16

All municipalities providing full-time public health services satisfactory to the Department of Health, whether individually or through health units, be eligible for a provincial grant of 50 per cent of their public health expenditures. 21:16

We endorse this recommendation for the reasons given by the Smith Committee. We note that some increases were effected as of January 1, 1968.

RECOMMENDATION 21:17

*The ceiling on the Department of Social and Family Services 21:17
grant for the construction of low-rental housing for the aged
be removed.*

We endorse this recommendation. We note that the responsibility for low rental housing has been transferred to the Department of Trade and Development, and the recommendation is reworded accordingly. We agree that the \$500.00 limitation is too restrictive and that it should be removed. This would have the effect of leaving the ceiling at 50% of the cost of construction over and above the 90% C.M.H.C. loan, subject to the approval of the Minister of Trade and Development. The revised recommendation reads as follows:

The ceiling on the Department of Trade and Development grants for the construction of low-rental housing for the aged be removed.

RECOMMENDATION 21:18

*Upon the creation of any unit of regional government, the 21:18
Province terminate all existing grants for recreation and
community services to the municipalities within the region
in favour of a Community Enrichment Grant payable to the
regional government.*

1. We endorse this recommendation. It proposed a simplification and a consolidation of the various recreation and community service grants which are paid at present. The payment would be made to the regional government of the area which would be responsible for apportioning the funds between the various municipalities under its jurisdiction.

2. We recommend that libraries not be included, however, in the Community Enrichment Grant paid to any regional government. We note that a system of regional library boards has been established in the Province, and that these library boards are under the jurisdiction of the Department of Education. It is our conclusion that the library boards should remain under the Department of Education, that they should continue to receive grants from that Department, and that the Community Enrichment Grant should exclude payments made for libraries, and be adjusted accordingly. We revise the recommendation to read as follows.

Upon the creation of any unit of regional government, the Province terminate all existing grants for recreation and community services, other than those for libraries, to the municipalities within the region in favour of a Community Enrichment Grant payable to the regional government

RECOMMENDATION 21:19

All recreation and community service grants now applicable 21:19 to the Municipality of Metropolitan Toronto and its constituent municipalities be terminated forthwith in favour of a Community Enrichment Grant of \$2 per capita payable to the Municipality of Metropolitan Toronto for apportionment between Metro and its constituent municipalities.

We endorse this recommendation for the same reasons given for Recommendation 21:18. We recommend further as we did in Recommendation 21:18, that libraries in Metropolitan Toronto should not be considered a recreation and community service, that they should remain under the jurisdiction of the Department of Education, and that the \$2.00 per capita grant should be adjusted to exclude any grants for libraries. Accordingly, we amend the recommendation to read as follows:

All recreation and community service grants, other than those for libraries, now applicable to the Municipality of Metropolitan Toronto and its constituent municipalities

be terminated forthwith in favour of a Community Enrichment Grant payable to the Municipality of Metropolitan Toronto for apportionment between Metro and its constituent municipalities which grant, together with existing library grants, will aggregate approximately \$2.00 per capita.

RECOMMENDATION 21:20

All provincial grants on behalf of the administration of justice be abolished.

This recommendation has been adopted by the Legislature which transferred the full responsibility for the administration of justice to the Province.

RECOMMENDATION 21:21

The grants payable to municipalities under provisions of The Fire Departments Act and The Police Act be abolished.

We endorse this recommendation which would remove two grants that no longer serve a useful purpose.

RECOMMENDATION 21:22

Provincial grants on behalf of municipal expenditure for wolf and fox bounties be abolished.

We endorse this recommendation. Without making a judgment about the desirability of bounties as such, we see no reason for having two bounties on wolves and two bounties on foxes in some parts of the Province. We are of the opinion that the Province should not contribute towards municipal expenditures for wolf and fox bounties.

RECOMMENDATION 21:23

The Municipal Unconditional Grants Act be repealed. 21:23

We endorse this recommendation which would end the present system of Municipal Unconditional Grants and would replace it with a new grant system described in Recommendation 21:25.

RECOMMENDATION 21:24

The Province pay to each tax-levying local authority a Basic Shelter Exemption Grant calculated annually by applying the authority's mill rate to the aggregate of the basic shelter exemptions applicable to residential and farm properties within its boundaries. 21:24

This recommendation was implemented during the last session of the Legislature. (See also Recommendation 11:11).

RECOMMENDATION 21:25

There be paid annually to all municipalities now receiving assistance under The Municipal Unconditional Grants Act a new unconditional grant providing, for the relief of all property taxpayers, an initial rate of \$7.00 per capita for the first 2,500 of population, an increase of 50¢ per capita for the next 2,500 of population, and an additional increase of 50¢ for each subsequent doubling of the population. 21:25

We endorse the recommendation. We approve of the method of applying incremental increases in per capita payments to marginal increases in population rather than using a sliding scale of grants applicable to the total population of the municipality as is the case at present. The rates proposed are reasonable, it being noted that all municipal-

ities would obtain larger grants.

RECOMMENDATION 21:26

The unconditional grant be based on the population reported annually by the municipality for assessment purposes. 21:26

We endorse this recommendation which would enable the new unconditional grants to reflect year-to-year changes in population and consequently in the amount of the grants themselves.

RECOMMENDATION 21:27

The Province, through Cabinet or an appropriate organ thereof, make a comprehensive annual review of provincial local finance and give yearly approval to all grant programs. 21:27

We endorse this recommendation. The formulation of grants is unnecessarily complex at the present time and too many departments are administering grant programs. The grant programs could be advantageously consolidated in one department. We suggest that the Operations and Methods Branch of the Treasury Department scrutinize the formulation, the procedures, the forms and the administration of all grant systems with the objectives of simplification and consolidation.

RECOMMENDATION 21:28

In instituting a comprehensive annual review of provincial local finance, the Province assign an expert staff to conduct continuing studies of the fiscal and economic condition of local governments. 21:28

We endorse this recommendation for the reasons given by

Recommendation 21:28 21:29 21:30
Dissent 1: Recommendation 21:25

the Smith Committee.

RECOMMENDATION 21:29

*The Province publish and table in the Legislature a report 21:29
on its annual review of provincial-local finance, giving special
emphasis to the fiscal and economic condition of local
governments.*

We endorse the recommendation which flows from Recommendation 21:28.

RECOMMENDATION 21:30

*The Province, upon reviewing the five-year capital budgets 21:30
of municipalities and prevailing economic conditions in
Ontario, be authorized to meet all of the interest and other
costs of temporary borrowing required to advance the initiation
of municipal capital projects.*

We endorse this recommendation which would allow the Province to provide incentive to encourage municipal projects conducive to sound economic growth.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS

IN CHAPTER 21

DISSENT 1: RECOMMENDATION 21:25

Messrs. Lawlor and Pilkey stated:

1. That we endorse the Recommendation but consider it far from an adequate answer to the channelling of more provincial revenue to the municipalities on an unconditional basis. We consider such a transfer essential to help municipalities

Dissent 1: Recommendation 21:25

meet their growing responsibilities in this urbanizing age, to preserve local autonomy, and to achieve a more progressive tax system by shifting some of the load from the overburdened property tax to the broader provincial tax base.

2. We believe that every resident of Ontario is morally entitled to a basic standard of services regardless of where he lives. The only way to ensure this is by a system of equalization grants based on tax capacity and need. If a Foundation Plan incorporating these concepts is acceptable for education costs, we see no reason why the same principle cannot be extended to other municipal services, and note that the Select Committee thought this possibility worthy of consideration in its comments on Recommendation 12:21.

3. We regret that the Select Committee did not go further and propose a Municipal Foundation Plan as a substitute for the per capita grants which are based on a much poorer measure of fiscal need.

CHAPTER 22

MUNICIPAL DEBT

1. In this chapter the Smith Committee reviewed municipal borrowing requirements, procedures followed in borrowing, and controls exercised thereover for both current and capital account. The Smith Committee concluded that this area required improvement including better scheduling of provincial grants to reduce the necessity of borrowing for current account and revised limits on the extent to which municipalities may borrow for current purposes.

2. In connection with borrowing on capital account the Smith Committee suggested that new guidelines be established setting maximum terms for capital borrowing. The Smith Committee reviewed the practice followed now by certain municipalities of financing a portion of capital expenditures from current revenues and asserted that such practices should be mandatory for all municipalities. The present reporting of municipal statistics and municipal capital budgeting were reviewed and recommendations were made for improvement.

3. Your Committee is generally in agreement with the proposals made by the Smith Committee for improvement in the area of municipal borrowing. Set out below are the 14 specific recommendations which the Smith Committee made together with the comments of your Committee.

RECOMMENDATION 22:1

Payment of provincial grants be scheduled throughout the year to help ensure an orderly flow of funds to meet the expenditure patterns of the recipient local authorities. 22:1

We endorse this recommendation, the intent of which is to reduce the amount of short-term municipal debt by changing the pattern of provincial grants to accomodate the irregular flow of municipal tax revenue during the year. We point out also that this recommendation is understood to include Mining Revenue Payments to Mining Municipalities.

RECOMMENDATION 22:2

The present limit on municipal borrowing for current purposes be replaced by new provisions 22:2

- (a) setting new statutory limits based solely on the last adopted estimates of revenue for a full year;*
- (b) permitting borrowing without prior approval within the limits of 15 per cent of such revenues without notice, and of 25 per cent with a full explanation given to the Province within 30 days of the borrowing;*
- (c) permitting borrowing in excess of 25 per cent of such revenues only with prior approval of the Province, and, if municipal councillors undertake such borrowing without provincial approval, applying the present penalty of disqualification from holding office for two years; and*
- (d) empowering the Province to require municipalities that borrow in excess of 15 per cent of revenues to create and maintain a working-fund reserve through a contribution of up to 3 per cent of the current levy.*

The intent of this recommendation, which we endorse, is to reduce the amount of municipal short-term borrowing so that municipalities would have a regular inflow of funds to offset predictable outflow. Several points of clarification are necessary. We note that the responsible provincial authority would be the Minister of Municipal Affairs and that full explanation would have to be provided for borrowings between 15% and 25% of estimated revenue. We therefore amend this recommendation to read.

The present limit on municipal borrowing for current purposes be replaced by new provisions

- (a) setting new statutory limits based solely on the last adopted estimates of revenue for a full year;
- (b) permitting borrowing without prior approval within the limits of 15 per cent of such revenues without notice, and within the limits of 25 per cent with a full explanation given to the Minister of Municipal

Affairs within 30 days of the borrowing;

- (c) permitting borrowing in excess of 25 per cent of such revenues only with prior approval of the Minister, and, if municipal councillors undertake such borrowing without Ministerial approval, applying the present penalty of disqualification from holding office for two years; and
- (d) empowering the Minister to require municipalities that borrow in excess of 15 per cent of revenues to create and maintain a working-fund reserve through a contribution of up to 3 per cent of the current levy.

RECOMMENDATION 22:3

The maximum term of capital borrowing for each type of asset, based upon a realistic concept of its anticipated useful life, be set out in a schedule to a Regulation prescribed by The Municipal Act, in lieu of the present provisions of the Act fixing, or empowering the Ontario Municipal Board to fix, the term of capital debt. 22:3

We endorse this recommendation which would encourage better control of municipal capital borrowing by establishing conservative debt limits. At the same time, it would introduce flexibility by eliminating the necessity for a municipality to seek approval from the Ontario Municipal Board of the term structure of proposed debt every time a capital project was financed. This would be done by implementing a schedule defining permissible terms of debt for different classes of capital asset. We think that the recommendation should spell out more precisely how such a schedule should be constructed. It would have to recognize that borrowing is often used to finance the acquisition of capital assets having different lengths of useful life. We therefore recommend rewording this recommendation as follows.

The maximum term of capital borrowing for each type of asset be set out in a schedule to a Regulation prescribed by The Municipal Act, in lieu of the present provisions of the Act fixing, or empowering the Ontario Municipal Board to fix the term of capital debt; and, that the schedule set out a realistic concept of anticipated useful life of each type of asset and the maximum term of the capital borrowing be no more than the scheduled life of the asset for which the borrowing is being undertaken; and, in the case of borrowing for composite purchases, the term be no more than the weighted average life of the assets.

RECOMMENDATION 22:4

Municipal corporations and each of their associated local boards be required to provide in their annual estimates amounts for capital purposes equal to the lesser of: 22:4

- (a) the amount of capital expenditures in their five-year capital budget that remains to be financed, and*
- (b) a statutorily specified percentage of their estimated current expenditures.*

The recommendation which we endorse is more clearly expressed in the following wording.

Municipal corporations and each of their associated local boards be required to provide in their annual estimates amounts for capital purposes equal to a statutorily specified percentage of their estimated current expenditures, to a maximum of 20 per cent of their five year capital budget.

RECOMMENDATION 22:5

A municipality or local board be permitted to make provision without limit for capital expenditures from revenue, provided that each such provision is clearly identified in the annual estimates of the body concerned at the time that they are adopted. 22:5

We endorse this recommendation the sole intent of which is to remove any limit on capital financing out of current revenue. The only limitation would ensure that such expenditure proposals were made public before adoption.

RECOMMENDATION 22:6

For the purposes of the Annual Report of Municipal Statistics and preparation by council and assessment of municipal capital budget submissions prerequisite to provincial approval of borrowing, the capital debt of a municipality be deemed 22:6

- (a) to include the proportion of the debt for which it or its ratepayers are responsible that has been incurred by the Ontario Water Resources Commission, the Central Mortgage and Housing Corporation, a public or separate school board, or any similar local authority, commission or corporation, and*
- (b) to exclude school debt to the extent that the debt charges on such debt are being met by provincial grant.*

Your Committee is in general agreement with this recommendation which would provide full disclosure of borrowings not now adequately reported in the Annual Report of Municipal Statistics. We think that complete disclosure is necessary if municipalities are to minimize the cost of interest of debenture financing. We think this recommendation does not clearly disclose the true debt position of the municipalities. We therefore suggest amending it as follows.

For the purposes of the Annual Report of Municipal Statistics and preparation by council and assessment of municipal capital budget submissions prerequisite to provincial approval of borrowing, the capital debt statement of a municipality should separately disclose

- (a) in addition to its own gross debt, that part of the debts of the county or region and that of the school boards which are supported by its tax base,
- (b) the amount of the debt in each of the above which is to be met by provincial grants,
- (c) the names of the local authorities, commissions or corporations borrowings which are guaranteed by the municipality and the amount of these guaranteed borrowings, and
- (d) the total obligations in each of the next five years under contracts in excess of one year's duration for which the municipality has contracted, the residual amount of such obligations and the date of expiration.

RECOMMENDATION 22:7

The provision for referendum on money by-laws be abolished and instead: 22:7

- (a) *the provincial authority responsible for approving borrowings be required to give electors or persons qualified to vote on money by-laws an opportunity to speak at a hearing prior to making a decision on an application; and*
- (b) *municipal councils be required to give owners and other persons qualified to vote on money by-laws notice of, and an opportunity to speak at, any council meeting at which it is proposed to discuss expenditures that will be financed through borrowing beyond the year.*

We endorse the principle of this recommendation which proposed an improved system for approval of municipal borrowing. We recommend that the Department of Municipal Affairs decide the details of the notice provision in the recommendation. It should be noted that we changed the word "any" in part (a) to the word "a" so it would not be inferred that more than one such public meeting was required. The amended recommendation reads as follows.

The provision for referendum on money by-laws be abolished and wherever a referendum on a money by-law would have been required, the following shall apply instead:

- (a) municipal councils be required to give owners and other persons qualified to vote on money by-laws notice of, and an opportunity to speak at a meeting of council, or a committee thereof, at which it is proposed to discuss expenditures that will be financed through borrowing beyond the year; and
- (b) the provincial authority responsible for approving borrowings be required to give electors or persons qualified to vote on money by-laws an opportunity to speak at a hearing prior to making a decision on an application.

RECOMMENDATION 22:8

- (a) *Every municipality be required each year to submit for provincial approval a capital budget for a period of at least five years;* 22:8
- (b) *upon approval of such capital budget or any amendment thereto, a municipality be permitted to effect without further approval the borrowing required for the proposals scheduled therein for commencement in the first year; and*
- (c) *upon effecting any borrowing so permitted, the municipality be required to notify the Province forthwith.*

Recommendation 22:8 22:9

1. We endorse the recommendation with the amendment that the Ontario Municipal Board remain as the agency of the Province to supervise municipal borrowing for reasons set out in Recommendation 22:9.

2. It is our opinion that municipalities should be allowed to embark on capital projects scheduled for commencement in the first year of the approved capital budget, and that they should not be required to obtain further approval of the Ontario Municipal Board in these circumstances. We amend the recommendation as follows.

- (a) Every municipality be required each year to submit to the Ontario Municipal Board for approval a capital budget for a period of at least five years;
- (b) upon approval of such capital budget or any amendment thereto, a municipality be permitted to effect without further approval the borrowing required for the proposals scheduled therein for commencement in the first year; and
- (c) upon effecting any borrowing so permitted, the municipality be required to notify the Ontario Municipal Board forthwith.

RECOMMENDATION 22:9

The responsibility for giving all approvals of municipal borrowings required by statute be transferred from the Ontario Municipal Board to the Department of Municipal Affairs. 22:9

We reject this recommendation. We note that the Ontario Municipal Board was formed to approve municipal borrowing and that it has become experienced in this complex area. The procedure for obtaining O.M.B. approval for capital expenditures is well understood and utilized. We reject the recommendation transferring the responsibility for municipal borrowing approval to the Department of Municipal Affairs.

RECOMMENDATION 22:10

The effective interest rates on all forms of provincial lending to municipalities be reviewed regularly and maintained at a uniform level at a small margin above the ordinary market rate.

1. We endorse this recommendation with amendment. We do not intend that the Ontario Water Resources Commission or the Ontario Education Capital Aid Corporation be included under this recommendation, because the O.W.R.C. does not lend direct to municipalities and because these agencies lend for special purposes for which the interest rate should be lower than the market rate. We conclude that this recommendation should apply only to the Ontario Municipal Improvement Corporation, and therefore we amend it by striking out the words "on all forms of provincial lending", and inserting in their place the words "charged by the Ontario Municipal Improvement Corporation".

2. We further recommend that a procedure be adopted concerning all borrowings from the Ontario Municipal Improvement Corporation so that a commitment letter would be negotiated with the Corporation at the time of the application establishing the term, the interest rate, the purpose and all other pertinent conditions of the borrowing. When the final documentation and approval for the borrowing are completed, the interest rate should be the lower of that shown in the commitment letter or the prevailing interest rate charged by the Corporation.

3. The amended recommendation reads as follows.

The effective interest rates charged by the Ontario Municipal Improvement Corporation to municipalities be reviewed regularly and maintained at a uniform level at a small margin above the ordinary market rate.

RECOMMENDATION 22:11

*On changing the system of grants so as to pay school boards 22:11
the provincial share of capital costs instead of debt charges,
the practice of lending through the Ontario Education Capital
Aid Corporation be abolished.*

1. We endorse this recommendation. Changing the system of school grants (as proposed in Recommendation 20:3) to share capital expenditures when incurred, instead of debt charges would eliminate the need for the Ontario Education Capital Aid Corporation. Furthermore, the elimination of its share of currently outstanding debentures issued for school purposes should be undertaken by the Province at such time as the financial market makes it feasible.

2. Any other borrowed funds required by municipalities would be available from the Ontario Municipal Improvement Corporation.

RECOMMENDATION 22:12

*The Province periodically review federal borrowing arrange- 22:12
ments open to Ontario municipalities with the object of
either obtaining the elimination of the borrowing aspects
from what are essentially conditional grant programs or
opting out of the arrangements altogether.*

We endorse this recommendation because there are a number of Federal lending programs available to municipalities which are combined with grants and the grants constitute the prime purpose for the preferred interest rates. These arrangements and programs should be subject to the control and approval of the Province.

RECOMMENDATION 22:13

Municipal corporations be required to carry out capital borrowing for separate school boards in the same manner as for other school boards. 22:13

We reject this recommendation. Separate school boards should not have to obtain the sanction of municipal councils for capital borrowings. We also note that separate school boards have available the facilities of the Ontario Municipal Improvement Corporation.

RECOMMENDATION 22:14

The Department of Municipal Affairs give study to ways in which a broader and more active market might be developed for municipal debentures. 22:14

1. We endorse the recommendation with the amendment which would permit term borrowing with adequate sinking fund requirements.

2. The reason for this addition is to improve the market for municipal bonds with attendant decreases in interest costs by providing a self generated market through the orderly and regular repurchase of such debentures from sinking fund reserves. We are assured that this method would reduce costs with no offsetting disadvantages. The recommendation would read as follows.

The Department of Municipal Affairs give study to ways in which a broader and more active market might be developed for municipal debentures, and in particular should permit term borrowings with adequate sinking fund requirements.

CHAPTER 23

RECONCILING STRUCTURE WITH FINANCE (REGIONAL GOVERNMENT)

1. This chapter dealt with the proposals of the Smith Committee on regional government. The chapter described the inter-relationship between the structure of local government and the financing of the services provided at the local level.

2. Three basic considerations led the Smith Committee to recommend the restructuring of local government. The first was dealt with in earlier chapters. It asserted that efficiency in the raising of property tax revenues requires assessment and collection on a regional basis. The second reason, described in the sections dealing with provincial grants for municipal and school purposes, was that equity in local finance cannot be achieved with the existing multiplicity of municipal institutions and would be better achieved through regional government. The third reason was that municipal capacity to develop non-property sources of tax revenue is severely circumscribed by limited territorial jurisdictions.

3. To these three reasons we add a fourth. The implementation of our recommendations on the taxation of mines (Chapter 32) would require some form of regional government to distribute these resources to municipalities on an equitable regional basis.

4. The Smith Committee recommended that a study of regional government be made but it is obvious to your Select Committee that rapidly developing public opinion has accelerated the need to reform the structure of local government. The concept of regional government has become accepted in this Province and this acceptance has obviated the need for protracted studies. The briefs received by your Committee, the representations made to your Committee and the discussions within your Committee demonstrate that the accent has shifted from acceptance of a study of the question to a positive desire for action in the near future.

5. In those areas where regional studies have been completed and in those areas in which the present county and district boundaries comprise rational boundaries for new

Reconciling Structure With
Finance (Regional Government)

regional governments, the time for action has arrived or is fast approaching. And in the rest of the Province detailed and protracted regional studies are not needed because of previous exhaustive studies and because of the experience gained in actual situations.

6. In view of these circumstances we endorse the Smith Committee's reasoning and the premises it established.

- (a) Local government is an indispensable part of our total system of democratic government.
- (b) There is an urgent need to reform the existing structure of local government.
- (c) A successful balance between the citizen's right of access to those who govern and the efficiency of the service being provided is the basis on which the structure of local government must be judged.
- (d) These criteria would be best met in Ontario in the immediate future by maintaining the existing two level system of local government.
- (e) The regional system should provide a two tier structure of local government comprising a "full-fledged regional level of government and a streamlined lower tier level".

7. In certain cases a two tiered structure of government would not be required, in which instances a single tiered system would deal with the problems of the region. Your Committee has accepted the Smith Committee's proposal for a two tiered system as a general rule, while accepting a one tiered system in particular areas. We do not insist on a homogeneous approach to the complex question of municipal government in a jurisdiction as large and as diverse as Ontario.

8. We have accepted the criteria for regional government established by the Smith Committee which we paraphrase as follows.

Reconciling Structure With
Finance (Regional Government)

- (a) A governmental region should possess, to a reasonable degree, a combination of historical, geographical, economic and sociological characteristics such that some sense of community already exists and shows promise of further development subsequent to the creation of the region.
- (b) A region should be so structured that diverse interests within its boundaries be reasonably balanced and give promise of remaining so in the foreseeable future.
- (c) Every region should possess an adequate tax base, such that it will have the capacity to achieve substantial service equalization through its own tax resources, thereby simplifying the provincial task of reducing local fiscal disparities.
- (d) Every region should be so constituted that it has the capacity to perform those functions that confer region-wide benefits with the greatest possible efficiency, efficiency being understood in terms of economies of scale, specialization and the application of modern technology.
- (e) Regions should be so delineated and their governments so organized that the co-operative discharge of certain functions can readily become an integral part of their overall responsibility.

9. We are in general agreement with the Smith Committee's selection of the functions to be performed by the regional level of government.

- (a) Property assessment.
- (b) Collection of regional taxes and of taxes levied by lower tier municipalities and school boards.
- (c) Levying, collecting or receiving any non-property taxes.

Reconciling Structure With
Finance (Regional Government)

- (d) Capital borrowing both for the regions and for lower tier governments.
- (e) Planning, to the extent that regional planning is properly a local rather than a provincial function.
- (f) Police protection, in whole or in part.
- (g) Fire protection, in whole or in part.
- (h) Arterial roads.
- (i) Public transit and other regional transportation services provided or supervised by local government.
- (j) Sanitary sewage treatment, and in some situations, trunk sewers and storm drains.*
- (k) Garbage disposal.*
- (l) Water supply, including in some situations, trunk mains.*
- (m) Public health.
- (n) Hospital facilities planning.
- (o) Public welfare.
- (p) Certain aspects of education.
- (q) Regional library functions.
- (r) Regional parks.
- (s) Conservation.

* Your Committee recognizes that in certain situations the Province may have to assume the responsibility for these services.

Reconciling Structure With
Finance (Regional Government)
Recommendation 23:1 23:2 23:3

10. We accept with qualifications the following formal recommendations of the Smith Committee.

RECOMMENDATION 23:1

The provincial government plan and schedule the detailed studies of boundaries, functions and forms of municipal organization needed to establish a comprehensive system of regional government within five years of the publication of this Report. 23:1

RECOMMENDATION 23:2

All regional governments be specifically charged with the functions of assessment, tax collection and capital borrowing on behalf of their constituent municipalities. 23:2

RECOMMENDATION 23:3

For as long as it proves impracticable to include a municipality or other reasonably settled community under the aegis of a governmental region, the Province undertake to make available appropriate regional services on a contractual basis. 23:3

11. We consider it appropriate at this point to note that the Smith Committee, having formulated its five criteria for a regional system, stated:

"We now proceed to propound a concrete scheme of regional government for Ontario in the belief that nothing short of a specific and reasonably detailed proposal can test the validity of our criteria and arouse the public interest and debate that constitute the necessary prelude to action."

Reconciling Structure With
Finance (Regional Government)
Recommendation 23:4

12. This the Smith Committee then proceeded to do. We comment on this aspect of the Smith Report, and offer our own modifications.

13. First, we are not persuaded that a two tiered scheme of regional government is necessarily desirable in every instance.

14. Secondly, the proposed division of regions into "Metropolitan", "Urbanizing" and "County" classes, and, in our opinion, the proposed boundaries offend against the five criteria set out by the Smith Committee. We are not convinced that adequate recognition has been given to the inter-relationship between the cities and the rural areas surrounding them. We think that the Smith Committee's emphasis on the separation of the urban and rural areas is wrong in principle. The best boundaries for regional governments are those which co-relate the urban, suburban and rural functions of an area to the greatest degree possible. Representations made to us supported this view.

15. Finally, we think there is no merit in giving new names such as "West County", "Upper Erie" or "Upland" to regions that have been known as Lambton, Middlesex, Essex, Kent, Bruce or Grey County for more than a century. We see no reason that these regions should not be given names such as "the Bruce-Grey Region" instead of "Upland" if such an area were delineated, and we therefore recommend the retention wherever possible of these great historic county names.

16. The fourth recommendation in this chapter of the Smith Committee Report is as follows:

RECOMMENDATION 23:4

*In devising a scheme of regional government for Ontario, 23:4
the Province take the necessary steps to integrate secondary
education as a regular responsibility of the regional council.*

Reconciling Structure With
Finance (Regional Government)

17. The passage of Bill 44 and related educational acts passed in the 1968 session of the Legislature make it unnecessary for us to comment at any length on Recommendation 23:4. We record only that we expect no significant change in the Province's new structure of the elementary and secondary school systems beyond the adjustment of jurisdictional boundaries to coincide with the boundaries of future regional governments.

18. We recommend specifically that a special branch be established, perhaps in the Prime Minister's Department, for the purpose of supervising the four-stage program set forth below. It would supply information to local municipalities respecting all implications of regional government, co-ordinate all provincial-municipal discussions and act as a liaison between the Province and the municipal governments in implementing regional government without undue delay. We visualize a secretariat of three or four qualified persons independent of the Department of Municipal Affairs.

19. Although it cannot be expected that the present local governments will restructure themselves and coalesce entirely on their own initiative in all regions, we think that every opportunity should be given to local initiative, experience and wisdom in establishing new regional governments. Your Committee proposes a four-stage program as follows.

20. First, local meetings within existing municipalities be held for internal discussions on the various aspects of regional government. We recommend that the new special branch be charged with the task of initiating, supervising, co-ordinating and leading such discussions and that this phase be concluded by the end of 1969.

21. Secondly, that meetings be held between municipalities in local areas. Some municipalities would attend two or more such series of meetings to consider the possible regional amalgamations available to them. Again, the new special branch would be charged with the responsibility that this stage be completed not later than mid-1970.

Reconciling Structure With
Finance (Regional Government)

22. Thirdly, provincial-municipal conferences be scheduled for each potential region during the first half of 1971 at which decisions would be made as to regional boundaries and regional responsibilities.

23. Finally, the implementation of full regional government in Ontario would be accomplished during the latter half of 1971.

24. We emphasize that this general program should not postpone regional government in areas that are in a position to proceed at an earlier date.

CHAPTER 24

INTRODUCTION TO VOLUME III

As well as outlining the organization of Volume III of the Report, this chapter commented on the organization and usefulness of the major financial documents prepared by the Province. These are the Public Accounts, the Budget Statement, and the abridged Financial Report. The Public Accounts are singled out as being particularly difficult to use. Accordingly, the Smith Committee recommended as follows.

RECOMMENDATION 24:1

*After due study, the form of the Public Accounts be revised 24:1
so as to provide a comprehensive and more meaningful
presentation of the revenues, expenditures and financial
position of the provincial government and all its agencies.*

1. We think it is essential that the major financial documents of the Province be so prepared that they may be readily used and understood.

2. We endorse the recommendation. Some of our reasons are as follows.

- (a) At the present time the financial operations of many important boards and commissions, such as The Ontario Hospital Services Commission, The Workmen's Compensation Board, and The Liquor Control Board are not included even in summary in the Public Accounts.
- (b) The method of accounting for monies supplied to universities for capital construction does not provide for a clear understanding of these transactions.

- (c) There is a lack of consistency in the manner in which revenues are reported, most importantly in the area of Federal contributions to provincial expenditure programs.
- (d) The revenues from taxes are reported on a net basis, after remuneration to vendors is deducted. We are of the opinion that the Public Accounts should show the amount of tax actually paid by the public before deductions.
- (e) A revision would attempt to achieve comparability with other provincial Public Accounts.

3. We recommend that the Canadian Tax Structure Committee is the appropriate committee to study and to propose a standard form of provincial and national Public Accounts.

RECOMMENDATION 24:2

In addition to the financial statements prepared by the Provincial Auditor, government revenues and expenditures be classified and presented on a national-accounts basis. 24:2

Your Committee agrees with this recommendation. A national accounts approach to the classification of government revenues and expenditures is essential if the public accounts are to become an effective instrument for economic policy. In the national accounts form of budget, only those income and expenditure transactions of government that have a direct impact on the flow of income and expenditure throughout the economy would be included. Transfer payments of government, and various bookkeeping transactions of internal significance to the government only, would be excluded. There can be no doubt that the national accounts form of budget permits a better assessment of the impact of the government sector on the operation of the economy. If adopted by the other provinces of Canada and utilized with

the National Accounts the purpose of the Canadian Tax Structure Committee would be furthered and the objective of effective contra-cyclical budgeting would be better achieved.

CHAPTER 25

PROVINCIAL REVENUE LEGISLATION:

ADMINISTRATION AND APPEAL

1. This chapter of the Report of the Ontario Committee on Taxation was concerned with the extension of the principles of simplicity, certainty and equal treatment of equals to the area of provincial tax collection and administration. As a broad consideration the Smith Committee recommended that, in keeping with the above principles, the rights of the taxpayer and of the Crown in tax administration be uniform. At present, revenue statutes tend to be weighted more heavily in favour of the Crown. Moreover, the Report pointed out that there is now no consistent policy regarding assessment, collection and review procedures.

2. Considerations of administrative efficiency and equity require the centralization of day-to-day administrative responsibility with respect to the raising of revenue as well as the formulation of broad, consistent and rational public policy in this field. To this end, the Smith Committee made 22 recommendations concerning tax collections, appeal procedures and general administration of the various tax acts, with the major emphasis being on uniformity and equity. Most of these recommendations dealt with the question of equity in collections and with the rights of taxpayers in appeal or review of administrative decisions. The remainder dealt with general administrative efficiency and with the provision of information to the public.

3. Your Committee is in agreement with the general principles of equity, uniformity and efficiency which have motivated the Smith Committee's recommendations with respect to administration and appeals. Moreover, we are in agreement with most of the 22 specific recommendations.

4. As in Chapter 18, we were of the opinion that the Smith Committee dealt with the matter of the administrative appeals too tersely and did not consider the restrictions

Provincial Revenue Legislation:
Administration and Appeal

in law on an administrative board. Our comments in the introductory part of Chapter 18, dealing with assessment appeal procedures, are fully relevant here. We also point out that because the tax statutes referred to in this chapter do not predate Confederation, there is the additional legal impediment that the Board of Review proposed in this chapter cannot be taken to have the powers ordinarily vested in the Superior, District or County Courts which were established prior to Confederation. Therefore its powers are restricted to deciding questions of fact alone. Furthermore, should the Province attempt to confer jurisdiction on such a board to decide questions of law, it would be ultra vires the Province, in that such questions could be determined only by a court presided over by a judge appointed under Section 96 of The British North America Act. The result is the same as in Chapter 18, that the powers of the Board of Review are in doubt. We propose in Recommendation 25:14 the same solution to this problem as we have proposed in Chapter 18, Recommendation 18:1.

5. Here are the specific recommendations of the Smith Committee, followed by our comments and recommendations.

RECOMMENDATION 25:1

The Government of Ontario establish a Department of Provincial Revenue responsible for the administration of all revenue statutes now administered by the Treasury Department under the Comptroller of Revenue. 25:1

Legislation has been enacted and no comment is required.

RECOMMENDATION 25:2

A review be made of all revenues not at present collected by the Treasury Department with a view to consolidating revenue administration in the proposed Department of Provincial Revenue. 25:2

We endorse this recommendation in the interests of efficiency and economy.

RECOMMENDATION 25:3

Statutory provision be made for the regular audit of agents who collect taxes, and that, except in cases of misrepresentation, fraud, or failure to remit tax collected, assessments for unpaid tax, together with interest, be limited to the two-year period before the audit, but that interest continue to run thereafter until the taxes assessed are paid. 25:3

We endorse this recommendation, especially with respect to the two year limitation on assessments for unpaid taxes. Any longer period would have a substantial effect on the agent's ability to recover tax from a client or customer and could impose severe financial hardship.

RECOMMENDATION 25:4

All revenue statutes that provide for collection through a "billing" or "self-assessing" method include the requirement that any assessment by the Province be made "with all due dispatch" and that, in the absence of misrepresentation or fraud, interest imposed for the period prior to assessment or reassessment for any deficiency in tax be limited so that it does not extend beyond two years from the date that the return was filed, or required to be filed, whichever is later. 25:4

We endorse this recommendation as a method of preventing undue financial penalties on conscientious taxpayers who have made honest errors.

RECOMMENDATION 25:5

All revenue statutes prohibit, except for fraud or misrepresentation, any reassessment of a taxpayer after the expiry of six years from the date of the first or original assessment or after any shorter period of time specified in an applicable intergovernmental tax collection agreement. 25:5

We concur with the Smith Committee's opinion that no taxpayer should be in jeopardy of paying tax for an indefinite period of time. We suggest, however, that the time limit be further reduced to five years. While the limit of six years was taken to conform with the Statute of Limitations, it is felt that six years is too long in view of the fact that the Federal Income Tax Act disallows reassessment after four years. Five years is recommended as a more reasonable limitation to give the Province an opportunity to review a Federal reassessment which may be issued toward the end of the four year period. The amended recommendation reads.

All revenue statutes prohibit, except for fraud or misrepresentation, any reassessment of a taxpayer after the expiry of five years from the date of the first or original assessment or after any shorter period of time specified in an applicable intergovernmental tax collection agreement.

RECOMMENDATION 25:6

*Each revenue statute require that administrative officials, 25:6
boards or commissions state fully and clearly in writing to
the person involved the authority or basis of their actions,
together with the reasons by which they justify their actions,
and that, where the privacy of the person is not affected,
these reasons be published whenever this is deemed to be in
the public interest.*

We are in general agreement with the Smith Committee's argument that, on grounds of equity, clear and written reasons for administrative decisions be given to persons affected. Moreover, we agree that the public has a right to this information for use in other cases of similar nature. We would carry this recommendation farther and we recommend that all decisions be published with provisions for preserving anonymity rather than publishing only decisions which do not affect privacy. We recommend striking out the phrase "where the privacy of the person is not affected" and replacing it with: "where the anonymity of affected persons, if requested, is preserved". The import of this recommendation is to remove the secrecy which so often encloaks administrative hearings while preserving the taxpayer's anonymity. Hence, administrative officers could not coerce the appellant into dropping a claim by the threat of publicity thus impinging on his right of appeal. We amend the recommendation to read as follows.

Each revenue statute require that administrative officials, boards or commissions state fully and clearly in writing to the person involved, the authority or basis of their actions, together with the reasons by which they justify their actions, and

that, where the anonymity of affected persons, if requested, is preserved, these reasons be published whenever this is deemed to be in the public interest.

RECOMMENDATION 25:7

*The Government of Ontario publish from time to time 25:7
Information Memoranda setting out administrative interpretation
and procedures of its revenue statutes.*

Because administrative interpretations are often of vital interest to the taxpayer, we endorse this recommendation. We recommend that the word "shall" be placed between "Ontario" and "publish" so that the Province should be required to publish all such decisions. Our amended recommendation will thus read as follows.

The Government of Ontario shall publish from time to time Information Memoranda setting out administrative interpretation and procedures of its revenue statutes.

RECOMMENDATION 25:8

*Fees for the issuance of collectors' and agents' licences be 25:8
abolished and that no collector's or agent's licence be refused
issuance or reissuance except upon failure to obtain a surety bond
when required.*

We agree with this recommendation which would eliminate the possibility of using such licenses in an indirect manner to determine who may or who may not carry on business in this Province. Moreover, since the licensee is acting as a tax-collector for the Province, the charging of fees for such licences is inappropriate.

RECOMMENDATION 25:9

*Provision be made in all revenue statutes for a right of 25:9
refund where overpayment has been made, whether under
mistake of fact or of law.*

In making this recommendation, the Smith Committee pointed out that overpayments are recoverable at present only when they result from a mistake of fact and not of law. Because the existence of a statute is a matter of law, refunds will generally not be made unless specific statutory authority exists. On grounds of equity, revenue statutes should allow for refund where overpayment has been made regardless of whether under mistake of fact or of law. To be consistent with Recommendation 25:5, which would place a limit of five years on the payment of arrears, a similar limit should be placed on refunds. This would give the taxpayer and the government equal treatment under the law. We amend the recommendation to read as follows.

Provision be made in all revenue statutes
for a right of refund within a period of
five years from the time the overpayment
has been made, whether under mistake of
fact or of law.

RECOMMENDATION 25:10

*Appropriate statutory provision be made for interest to be 25:10
paid in respect of all overpayments.*

We agree with the Smith Report that equity demands

interest be paid on all overpayments and that the rate of interest be somewhat below current borrowing rates to avoid the possibility of taxpayers deliberately overpaying to take advantage of advantageous interest rates. Interest should be paid only on the amount which is refunded. Thus, to be consistent with Recommendation 25:9 interest would not be payable on overpayments which are not recoverable because of the five-year limitation. We recommend therefore that the phrase "in respect of the overpayments for which repayment is made" replace "in respect of all overpayments", so that the amended recommendation reads as follows.

Appropriate statutory provision be made for interest to be paid in respect of the overpayments for which repayment is made.

RECOMMENDATION 25:11

The penalty provisions in all revenue statutes provide that 25:11 interest is to be payable in respect of overdue amounts at a uniform rate, in excess of the maximum rates ordinarily charged by banks, to be set periodically by the Lieutenant Governor in Council.

Your Committee agrees with the Smith Report that there is no justification for the present variation of interest rates charged on overdue amounts provided for in different revenue statutes and that to discourage "borrowing" from the Province at advantageous rates such interest charges should be above the market rate. We agree with the recommendation of a uniform rate. But because of the problem of effective rates versus quoted chartered bank rates, we find difficulty with the phrase "maximum rates ordinarily charged by the banks". For the sake of clarity we suggest that "maximum rate" be replaced by "prime rate", so that the amended recommendation reads as follows.

The penalty provisions in all revenue statutes provide that interest is to be payable in respect of overdue amounts at a uniform rate, in excess of the prime rates ordinarily charged by banks, to be set periodically by the Lieutenant Governor in Council.

RECOMMENDATION 25:12

*All revenue statutes provide a reasonable but effective 25:12
penalty for delinquent and late filing of returns, and grant
to the minister responsible discretionary power to allow,
where appropriate, extensions of time for the filing of tax,
information and other returns.*

We endorse this recommendation because it would allow for equal treatment in all revenue statutes with respect to the extension of time by means of Ministerial discretion.

RECOMMENDATION 25:13

*All revenue statutes that provide for liens against the prop- 25:13
erty of delinquent taxpayers give authority to the minister
responsible to issue certificates of no claim for lien, which
shall be binding on the Crown in respect of a transaction in
which the applicant is involved that is completed within a
stated period.*

We accept this recommendation because it would reduce the uncertainty which now surrounds the sale of property with respect to tax liens.

RECOMMENDATION 25:14

A statutory Board of Review be constituted within the Treasury Department to hear objections to the assessment of taxes, the levying of other charges, and any other administrative acts performed under authority of the revenue statutes. 25:14

1. We endorse this recommendation subject to our comments made in the introduction to this chapter respecting the restricted powers of the administrative board to decide questions of fact alone. We again note that it is most important to have a clear conception of the powers of the department assessor, or of the proposed Board of Review, and we note that the Smith Committee has not defined these powers. We recommend the same solution set out in Chapter 18 regarding assessment appeals. The Attorney General's Department should study the problem which we have tried to elaborate both here and in Chapter 18.

2. Furthermore, it is our opinion that Recommendation 25:14 could be interpreted to mean that the Board of Review would have the power to review a Minister's decisions or over-rule his discretionary powers. We reject this proposition because it is contrary to the principle of responsible government. In our view, therefore, this recommendation should not be applied to ministerial decisions or his discretionary powers.

RECOMMENDATION 25:15

On the recommendation of the Chairman of the Board of Review, the government publish from time to time those decisions of the Board that are matters of general public interest. 25:15

We endorse this recommendation in principle to the extent that it is an extension of Recommendation 25:6 but we do recommend some changes. If the decisions of the Board of Review are in the public interest they should be published. Whether they be published or not should not depend on the discretion of the Chairman. Moreover, to be consistent with our position on Recommendation 25:6, provision should be made to preserve the anonymity of affected persons, when requested. We therefore suggest that the recommendation be reworded to read as follows.

The government shall publish from time to time those decisions of the Board that are matters of general public interest, provided the anonymity of affected persons, if requested, is preserved.

RECOMMENDATION 25:16

Each revenue statute provide a right of appeal to the High Court of Justice for Ontario from any assessment, levy, administrative act or review upon obtaining leave of the Court, and from any decision of the Board of Review as a matter of right.

1. Subject to the qualifications described under Recommendation 25:14, your Committee accepts this recommendation which would guarantee the taxpayer the right to appeal the outcome of an administrative process or a question of law to a court of law. It also provides that if, in the opinion of the court, a dispute is sufficiently grave to warrant direct appeal to the courts, the Board of Review may be by passed.

2. We further recommend that the Minister be given a similar right of appeal to that of the taxpayer, and that the same appeal procedures as are set out in the Smith Report apply.

RECOMMENDATION 25:17

The Chief Justice of the High Court be requested to designate one or more of the members of his Court as a judge or judges in revenue appeals. 25:17

In the matter of tax appeals, it is very important that inter-temporal continuity be preserved. Under this recommendation, trial judges would have special experience in revenue cases, thus enhancing the appeal procedure. On the basis of continuity and efficiency, therefore, we endorse this recommendation.

RECOMMENDATION 25:18

No costs be charged on any hearing before the proposed Board of Review. 25:18

We agree with the spirit of this recommendation that everyone should be responsible for his own costs at this level but that there should be no entry fee to a hearing. We therefore recommend rewording this recommendation, in the following manner, to fully capture this spirit. This is consistent with our rewording of Recommendation 18:6.

No fees or costs be charged or awarded by the proposed Board of Review on any hearing before it.

RECOMMENDATION 25:19

Statutory direction be given to the Supreme Court of Ontario to award costs as between a solicitor and his client to the 25:19

appellant and against the Crown unless the Court considers that the appeal is frivolous and vexatious or that the appellant had previously withheld pertinent evidence.

In making this recommendation, the Smith Committee argued that, in the matter of appeals, the judicial process is an extension of the general collection procedure of the Crown and therefore that costs generally should not be borne by the appellant taxpayer. We cannot accept this recommendation because it is based on awarding costs as between a solicitor and his client. This is much too broad, and it is felt that the provision would be abused. We recommend that costs be awarded only on a party and party basis. This is consistent with our rewording of Recommendation 18:7. The amended recommendation reads as follows.

Statutory discretion be given to the Supreme Court of Ontario to award costs on a party and party basis either to the appellant, or to the Crown in the event of a frivolous or vexatious appeal.

RECOMMENDATION 25:20

All revenue statutes provide that security for costs, if any, be at the discretion of the Court. 25:20

We endorse this recommendation.

RECOMMENDATION 25:21

Wherever a revenue statute imposes a time limit within which to take a step in the appeal procedure, such limit 25:21

be extended on application to the Supreme Court of Ontario upon such terms as the Court thinks equitable under the circumstances.

We endorse this recommendation which would introduce a desirable degree of flexibility into the matter of time limits on appeals.

RECOMMENDATION 25:22

A Select Committee of the Legislature on Civil Rights in Revenue Legislation be appointed to make a periodic review of all revenue statutes of Ontario for the purpose of ascertaining whether or not a constant and uniform policy respecting the rights and duties of citizens is being maintained.

This recommendation is acceptable but because of the growing importance of administrative rulings we suggest that the objects of review should be broadened. We therefore recommend that the words "revenue statutes" be replaced by "revenue statutes, regulations and administrative rulings". The amended recommendation follows.

A Select Committee of the Legislature on Civil Rights in Revenue Legislation be appointed to make a periodic review of all revenue statutes, regulations and administrative rulings of Ontario for the purpose of ascertaining whether or not a constant and uniform policy respecting the rights and duties of citizens is being maintained.

CHAPTER 26

THE PERSONAL INCOME TAX

1. In this chapter the Smith Committee considered the Personal Income Tax now levied by the Province of Ontario and made ten recommendations. These proposals suggested a continuation of the present collection arrangement with the Federal government, emphasized the need for increased participation by the Province in policy decisions affecting the personal income tax base, recommended that the Province attempt to obtain some participation in non-resident withholding taxes and special levies on corporations in lieu of personal taxation on corporate distributions, and made three or four amendments of a technical nature.

2. In reviewing the economic implications of the Personal Income Tax, the Smith Committee indicated that it found no evidence of any disincentive effect on either the desire to work or to invest. The Smith Committee examined the question of the incidence of the Personal Income Tax and concluded that while some shifting undoubtedly occurs it is impossible to quantify. The Smith Committee assumed that the person who pays the tax bears its burden. It concluded that the Personal Income Tax is less progressive and less redistributive in effect than is commonly thought given the present base.

3. The Smith Committee discussed the three methods which the Province might utilize in levying and collecting a Personal Income Tax, that is, the imposition and collection of its own tax, the imposition of a tax collected on its behalf by the Federal government, or sharing a federally imposed income tax. The Smith Committee favoured the present arrangement whereby the Province levies its own tax but enters into a collection agreement with the Federal government. On page 52 of Volume III it listed seven advantages of this arrangements as follows:

"(1) The tax collection agreement between the Federal government and Ontario has worked satisfactorily to date. From time to time there have been errors made in estimating the monthly payments, but these have been quickly corrected and not duplicated.

(2) In the agreeing provinces, the collection agreements

The Personal Income Tax

have ensured uniformity in the determination of taxable income and in its allocation among provinces.

- (3) The agreements have enabled the provinces to avoid the very substantial administrative effort and expense of administering their own income tax statutes.
- (4) A province retains substantial control over its yield from the personal income tax since it has the right to levy a higher or lower rate than the rate of federal abatement.
- (5) Because payments to the provinces are computed by reference to taxes assessed under their Acts, and not on amounts actually paid by taxpayers, the provinces' yields are unaffected by delinquencies in payment.
- (6) The problems of taxpayer compliance have been simplified since only one return for both federal and provincial taxes need be filed.
- (7) A taxpayer is inconvenienced by being able to settle both his federal and provincial income tax problems with one administration."

4. While preferring the present collection arrangement, the Smith Committee did indicate several areas of concern with the present tax and indicated the desirability of a general improvement, particularly in the base. The Smith Committee indicated its belief that income for tax purposes should be broadened to include other elements of income within the tax base. It suggested that all costs of earning income should be deductible, that improvements should be made in the loss carry-over provisions and that income averaging should be generally available. The Smith Committee favoured the use of joint return filing for husband and wife. It also criticized the present rate structure indicating that while it favoured progressive rates rather than proportional taxation, the marginal rates should be reduced and should terminate at a rate somewhat less than

The Personal Income Tax

the present 80% maximum. This it considered to represent a form of confiscation with little benefit to revenue and none to incentive or equity. Presumably because of its endorsement of the present collection arrangement which requires a common Provincial-Federal base for personal income taxation, the Smith Committee did not make any specific recommendations on these matters.

5. Your Committee would like to make clear its view that the continuance of a collection arrangement with the Federal government should not be permitted to preclude more intensive use of the Personal Income Tax. As we have indicated elsewhere in this Report, we believe that a substantial part of the future increased revenue requirements of the Province should be met from this progressive source. Hopefully, additional personal tax room will be provided by the Federal government, but their failure to provide this accommodation should not result in a decrease in the relative importance of this tax in the provincial tax structure. Since the Personal Income Tax could be the most progressive element of the structure, in the opinion of your Committee, it should be the first source to be explored when additional revenue is required.

6. The Smith Committee discussed the merits of a capital gains tax on individuals and concluded that a capital gains tax should be approached with caution and not by Ontario acting alone. It suggested that a capital gains tax should be considered only in conjunction with a major revision to the entire tax structure and described five minimum conditions which it considered would be necessary in any system taxing capital gains. These five conditions are as follows.

- "(1) Some form of tax alleviation, either through a reduced rate or a method of smoothing or averaging, in such form as not to necessitate the separate identification of capital gains as such;
- (2) A deemed realization of gains at death, in order to overcome in substantial part the inequities arising from deferral of tax on the accrued gains of a lifetime;
- (3) Full offset of capital losses against other income;

The Personal Income Tax
Recommendation 26:1

- (4) Moderation of the tax on those broadly owned types of asset in which forced realizations are likely to be common, the most general of all being the home of the taxpayer; and
- (5) A form of reporting and a system of administration having the fewest possible complications."

7. In general, your Committee concurs with the Smith Committee views on the inadvisability of the Province unilaterally introducing a capital gains tax. We believe that the equity of the provincial tax structure would be enhanced by the addition of such a tax, but, we reject it because of the severe problems which would arise in administering it in the absence of a comparable levy at the Federal level.

8. We did consider the possibility of a capital gains tax on increased land values, but this was rejected for the present with the suggestion that the Province give further study to this type of tax. The rationale for this levy was our belief that a substantial part of the increment to land value is attributable to the provision of social capital and services at public expense. It seems reasonable, therefore, that the public sector share in the resulting appreciation. We are forced to conclude that whatever the difficulty of administering a general provincial capital gains tax, the problems and distortions resulting from a more narrowly based levy would be even more formidable. We did think some further study must be given to this principle including broader application of the tax deferral method now used with golf courses.

9. We now turn to the recommendations made by the Smith Committee and follow each with the comments of your Committee.

RECOMMENDATION 26:1

Ontario press the federal government to consult the provinces on proposals for changes in the structure of the personal income tax, to ensure the fullest possible measure of agreement. 26:1

Recommendation 26:1 26:2 26:3

We endorse the recommendation for the reasons given by the Smith Committee. We are of the opinion that unilateral changes by the Federal government in the common base of the Personal Income Tax cannot be justified because they directly affect the Province's revenue. We are of the opinion that the Federal government should consult the provinces on all proposed changes.

RECOMMENDATION 26:2

Ontario press the federal government for consultation with the provinces in respect of all questions relating to the sufficiency of uniformity between the federal and provincial legislation, and to the adequacy of the authority provided to enable federal collection of provincial tax and administration of provincial legislation. 26:2

We endorse this recommendation. It proceeds from Recommendation 26:1, and would provide for continued uniformity in the collection and administration of Federal and provincial taxes.

RECOMMENDATION 26:3

In the negotiation of any future fiscal arrangements with the federal government, Ontario press for a provincial sharing in the yield from the non-resident withholding tax computed at the same rate as the rate of federal abatement for corporation income tax. 26:3

We endorse this recommendation because we think the Federal government should share the yield from non-resident withholding taxes with Ontario and the other provinces.

RECOMMENDATION 26:4

In the negotiation of any future fiscal arrangements with the federal government, Ontario press for provincial sharing in the yield from the taxes imposed upon corporations in lieu of taxes on corporate distributions to shareholders, such provincial sharing to be in the same proportion as the personal income tax abatement and to be allocated among the provinces in the same proportion as the income of each corporation liable for such a tax is allocated for purposes of corporation income tax abatement. 26:4

We endorse this recommendation. We think the Federal government should share with Ontario and the other provinces the yield from the taxes imposed upon corporations in lieu of taxes on corporate distributions to shareholders.

RECOMMENDATION 26:5

Ontario press for amendments in the provisions of the tax collection agreement that would permit it to notify the federal government of its intention to change its rate of taxation for a year at a date later than October 1 of the preceding year, the date now required. 26:5

We endorse this recommendation but we foresee that there may be problems because the Federal government income tax forms, tax withholding tables, etc., must be prepared and printed some time before the year end.

RECOMMENDATION 26:6

Section 3 (4) (a) of The Income Tax Act of Ontario be amended 26:6

- (a) to provide that the "tax payable under the Federal Act" for purposes of calculating the Ontario income tax be the amount as defined at present plus the amount of any credit for provincial logging tax deducted under Section 41A of the federal Act, and*
- (b) to permit an individual to deduct from his Ontario income tax an amount equal to one-third of the tax payable by him under The Logging Tax Act.*

We endorse this recommendation. The purpose of the recommendation is to put the individual proprietor of a logging operation in the same position as a corporate taxpayer engaged in logging. At present an individual does not obtain the benefit of the Ontario logging tax credit.

RECOMMENDATION 26:7

The tax credit for foreign tax under The Income Tax Act of Ontario be determined by reference to income "from sources in" a country other than Canada, rather than income "earned in" such a country. 26:7

We endorse the recommendation. At the present time, the Ontario tax credit in respect of foreign investment income could technically be disallowed since the income may not have been "earned" in the foreign jurisdiction. The Federal act does allow a credit for all foreign taxes whether the income be "earned" or "unearned". The administrative practice in Ontario is to allow the tax credit, and this recommendation would correct the anomaly in the Ontario act.

RECOMMENDATION 26:8

The amount to which the tax credit for foreign tax is limited under paragraph (b) of Section 3(6) of the Act be a proportion of the tax payable under the Act, rather than a proportion of the abatement for provincial tax under the federal Act. 26:8

We endorse the recommendation because it would correct the existing anomaly.

RECOMMENDATION 26:9

A taxpayer who has elected to average his income under the federal Income Tax Act be similarly treated under The Income Tax Act of Ontario even if he resided in another province or earned business income outside Ontario during the averaging period; but the saving in Ontario tax resulting from the election to average be limited to the proportion of the amount otherwise applicable that his income attributable to Ontario is of his total income for the five-year period. 26:9

We endorse the recommendation because it would eliminate the existing restriction on a taxpayer engaged in farming or fishing to elect to average his income over a five year period.

RECOMMENDATION 26:10

Provision be made in The Income Tax Act of Ontario requiring that a reassessment be made if the amount of federal tax for any year is changed by a decision of the Minister following the filing of a notice of objection, or by a decision of the Tax Appeal Board or a Court. 26:10

We endorse the recommendation because it would correct the existing deficiency in the Ontario act concerning reassessments for income tax, and it would codify the present administrative practice.

DISSENTING OPINIONS ON RECOMMENDATIONS IN

CHAPTER 26

DISSENT 1:

Mr. Lawlor stated:

1. The Smith Report, for the usual reasons, scouts the

Dissent 1:

imposition of a capital gains tax in Ontario alone, either in general, or upon land-value appreciation in particular. Your Committee, while not rejecting either the wider or narrower application of such a tax referred it for further study. It seems to me that the numerous objections to a capital gains tax, under either head, are neither as coercive, nor as valid, as is often argued.

2. A general capital gains tax for Ontario should not be dismissed as impractical or impossible. If initially imposed at a low rate, it probably would not place Ontario at a financial disadvantage vis-a-vis the other provinces; and besides, it would place Ontario in a role of leadership. If, as seems quite possible, a mutual relation could be established with Quebec, it would be altogether feasible; and would aid greatly in reducing artificially inflated values and speculation.

3. To direct a capital gains tax onto land alone, while possible, and even necessary, involves far greater problems of application and collection; but it can be done. We have conferred considerable tax relief to legitimate farm lands, and it is only equitable that the community should share in an increment which is largely community-induced. Certainly the corporate shield, and the use of share transfers makes for added difficulties in detection of the gain, but an actual sale of the land by a corporation clearly could be taxable. In any case, a certain amount should be exempt in the sale of a man's house, and cognizance taken of the costs of a substitute dwelling. On the whole, while I believe the tax to be workable, probably other means such as land use control, or the golf course principle, would more effectively accomplish the objective of keeping good farm lands in production and preventing unearned and wind-fall profits.

4. On Pages 77 to 79 (Volume III), the Smith Report sets out six different arguments against a capital gains tax and succeeds, effectively, in answering each. In the continued absence of action by the Federal government, we in Ontario should go ahead and impose this tax; and if the Government of Ontario does not itself wish to use it, then it might, at least, confer the power upon its municipalities insofar, in any case, as land is concerned.

CHAPTER 27

THE CORPORATIONS TAX

1. The Smith Committee considered the taxation of corporations in this chapter. Particular attention was paid to the Corporate Income Tax because it is a major revenue producer for the Province. The Smith Committee devoted considerable attention to a discussion of the question of corporate tax incidence, pointing out that present economic opinion ranges from one of no shifting to the other extreme of virtually complete shifting of the burden of these taxes to the consumers. The Smith Committee reached no independent conclusion on this matter pointing out that regardless of the assumptions made as to the amount of shifting, it is impossible for the Corporation Income Tax to meet the test of equity. Because of this the Smith Committee concluded that the Province should not increase its reliance upon the Corporate Income Tax, but rather should maintain the level of corporate taxation at that generally existing in Canada and in other countries with which Canada has major trading relations. Notwithstanding these conclusions it should be noted that the Smith Report implied Corporate Income Tax rate increases in table 8:6 and 8:7, pages 275-6 of Volume I.

2. The Smith Committee reviewed the existing arrangements by which Ontario, like Quebec, levies and collects its own Corporate Income Tax in contrast with the other provinces which have entered into agreements with the Federal government for the collection of the corporate taxes which they levy. The Smith Committee believed that it is highly desirable to have a common base and common approach to corporate income taxation in all Canadian provinces and concluded that this could be accomplished best by having the Province continue to levy its own Corporate Income Tax, but enter into a collection agreement with the Federal government. Many of the advantages cited previously for the Personal Income Tax collection agreement would have application to the corporate area.

3. The Smith Committee indicated its belief that the present tax base required improvement, particularly with respect to the deductibility of business expenses. It favoured an expansion of the present loss carry-over provisions and indicated a desire for a permanent solution to the problem of corporate surpluses.

4. Your Committee is in agreement with the proposal of the

Smith Committee that the Province enter into a collection agreement with the Federal government for the collection of corporate income taxes. Pending the conclusion of such an agreement, your Committee recommends that the present corporate tax base be changed to conform to the Federal Income Tax Act. In this connection it is noted that the Appendix to Chapter 27 lists forty-nine areas where the two differ at present.

5. In their Report, the Smith Committee commented on the uncertain incidence and capricious economic effects of the Corporate Income Tax, and explained that these factors made them reluctant to rely on it as a source of additional revenue. We cannot disagree regarding the uncertainty of the incidence of this tax, but whatever the location of its burden, the economy has now fully adjusted to it. We are therefore not persuaded that there is any significant case for decreasing its relative importance in the provincial tax structure. We disagree with the Smith Committee which would decrease the relative importance of this tax through its desire to rely primarily on the sales and personal income taxes as sources of additional revenue.

6. Set out below are the eight specific recommendations of the Smith Committee concerning the Corporate Income Tax, together with the comments of your Committee.

RECOMMENDATION 27:1

Ontario seek an agreement with the federal government for the collection of corporate income taxes under which 27:1

- (a) a copy of each federal corporate tax return of a corporation incorporated in Ontario, having a permanent establishment in Ontario or carrying on business in Ontario, and all notices of assessment thereof, would be made available to the Treasurer of Ontario, either by the federal government or by the taxpayer's filing, and*
- (b) the federal authorities would undertake*
 - (i) upon written request of the Treasurer of Ontario to conduct an audit of an Ontario taxpayer's return and advise the Treasurer of the results, and*
 - (ii) to consult regularly with the Treasurer of Ontario on the desirability of any proposed changes in the structure of the tax or its yield to the Province.*

We endorse this recommendation. It is our opinion that Ontario should seek a collection agreement with the Federal government for the collection of the Province's corporate income taxes, and that the present duplication of filing and payment of corporate income taxes should be eliminated.

RECOMMENDATION 27:2

In the event that Ontario does not enter into a corporate tax collection agreement with the federal government, The Corporations Tax Act be amended to provide that 27:2

- (a) every corporation shall pay a tax at the rate specified, computed on its taxable income earned in the year in Ontario as determined under the provisions of the Income Tax Act (Canada) and the Regulations thereunder, except as otherwise specifically provided in The Corporations Tax Act;*
- (b) all discretions exercised by the Minister of National Revenue under the Income Tax Act (Canada) shall be deemed to have been exercised by the Treasurer of Ontario unless the Treasurer exercises a discretion, when the determination made by the Treasurer shall prevail;*
- (c) all elections made by a taxpayer under the Income Tax Act (Canada) shall be deemed to have been made for purposes of The Corporations Tax Act unless otherwise specifically provided in that Act; and*
- (d) every corporation required to file a return under The Corporations Act (Ontario) shall file with the Treasurer each year a copy of its return filed under the Income Tax Act (Canada), and a copy of every election, pension plan or other document filed with the Department of National Revenue under any provision of the Income Tax Act (Canada).*

In our opinion, the Province should enter into a collection agreement with the Federal government, as was recommended in Recommendation 27:1. Consequently, we endorse this recommendation only as a secondary alternative. We endorse part (a) because it provides for uniformity between the provincial and the Federal corporate taxes. In the appendix to Chapter 27 of the Smith Committee Report there are listed 49 areas in which the two acts differ in substance.

We recommend that these areas be reconciled as soon as possible. We endorse parts (b), (c) and (d) as administratively desirable, and if part (d) of the recommendation is implemented, the province could discontinue the form now required under The Corporations Tax Act.

RECOMMENDATION 27:3

The present capital and place-of-business taxes under The Corporations Tax Act be replaced by an annual corporate business tax of fixed amount payable, without any reduction for corporate income taxes, by every corporation now liable for the present taxes; and that the amount of the tax be fixed at the rate or rates needed initially to yield approximately the same revenue as derived from the present taxes. 27:3

1. We endorse this recommendation because the present method of computing capital and place of business taxes is unnecessarily complex, and because the fee should be payable whether or not the corporation is liable for corporate income taxes.
2. It is the opinion of your Committee that the revision of the structure of these taxes should be combined with a complete review of other minor taxes and filing fees presently levied on corporations in Ontario. We see considerable advantage in requiring corporations to file only one composite return, which would include the information and the tax presently required under The Corporations Information Act, the annual tax proposed above and any other filings. In the determination of such a composite tax or fee, we suggest that it be set at a flat rate to apply to all corporations in Ontario, regardless of their size, their profitability or the nature of their business. We note that a flat rate fee or tax of \$65.00 per corporation would yield approximately the same revenue as is now received from the several existing taxes and fees.

RECOMMENDATION 27:4

Upon entering into any agreement with the federal government for the federal collection of Ontario's corporate income taxes, the proposed annual corporate business tax be collected, together with the annual filing fee under The Corporations Information Act, by the Department of the Provincial Secretary. 27:4

For the reasons expressed in Recommendation 27:3, we endorse this recommendation.

RECOMMENDATION 27:5

The special taxes under The Corporations Tax Act applicable to banks, railways, telegraph companies, express companies, sleeping car, parlour car and dining car companies be repealed, and such corporations be subject to the recommended annual corporate business tax. 27:5

For the reasons expressed in Recommendation 27:3, we endorse this recommendation providing Recommendation 27:3 is implemented.

RECOMMENDATION 27:6

The provisions of the Ontario Corporations Tax Act relating to searches and seizures be amended to provide safeguards to protect the rights of a person whose property has been seized by giving him the right 27:6

- (a) to apply to a court for a review of the action taken,*
- (b) to inspect and list the seized documents, and*
- (c) to obtain the return of seized documents upon the substitution, where practical, of properly identified, clear photo copies of such documents.*

We endorse the recommendation which is consistent with the objectives of the Report of the Royal Commission Inquiry into Civil Rights.

RECOMMENDATION 27:7

Provision be made in The Corporations Tax Act for a procedure to be followed when solicitor-client privilege is claimed in respect of documents that are demanded or seized. 27:7

We endorse the recommendation because it would correct a deficiency in The Ontario Corporations Tax Act which does not exist in The Income Tax Act (Canada), and which deficiency is prejudicial to the interests of the taxpayer.

RECOMMENDATION 27:8

The Corporations Tax Act provide that a prosecution for an offence under the Act must be commenced within five years from the day on which the matter of the information or complaint arose or within one year from the day on which an officer of the Branch first had sufficient knowledge to justify a prosecution for the offence. 27:8

We endorse this recommendation which would make The Corporations Tax Act (Ontario) similar to The Income Tax Act (Canada) in respect to time limits for prosecutions. At present there is no provision limiting the period of time within which a prosecution can be laid, and in our opinion this undesirable situation should be corrected.

CHAPTER 28

THE TAXATION OF WEALTH:

DEATH AND GIFT TAXES

1. The Ontario Committee on Taxation recommended in this chapter that the Province continue to obtain a significant proportion of its revenue from the taxation of wealth. Three considerations were dominant in leading the Smith Committee to this conclusion. In the first place, it accepted the argument that the possession of wealth itself confers taxable capacity which cannot be ignored if the ability-to-pay principle is to be recognized. Secondly, the Smith Committee subscribed to the idea that by contributing to a favourable economic climate in which the growth and accumulation of capital is possible, the public sector may claim a reasonable share of such accumulation. A further justification was found in the belief that an undue concentration of wealth is inconsistent with the proper functioning of the democratic system. Together, these considerations were held by the Smith Committee to be sufficient reason for a continued and somewhat greater reliance on wealth taxes.

2. Of the four principal methods of taxing wealth - annual net worth taxes, cumulative accession taxes, death taxes, and gift taxes - it was the Smith Committee's conclusion that a combination of death and gift taxes was best. Of these methods the Smith Committee placed primary reliance on death taxes for the reason that these can be adjusted most readily to accommodate the taxable capacity of the accumulation of capital. The gift tax proposed in Recommendation 28:55 was considered to be a complement to death duties to prevent the erosion of the succession duty tax base and to discourage transfers between taxpayers with different marginal personal income tax rates. Your Committee has formed its own conclusions on this particular recommendation which are described later.

3. The Smith Committee stated that the economic impact on the rates of saving and investment would be slight. It

The Taxation of Wealth:
Death and Gift Taxes

concluded that potential taxpayers would not disinherit their beneficiaries to avoid the tax and noted that for some taxpayers the succession duties might serve to stimulate increased savings and investment. To the extent that there was some adverse effect on private investment, the Smith Committee noted that there would be a partial offset in the increased public investment resulting from the public expenditures.

4. An issue which the Smith Committee did not resolve and could not be expected to resolve was the location of the burden of wealth taxes. On this question economic theory is divided. After noting the conflicting points of view, the Smith Committee concluded that the burden falls mainly on the deceased.

5. In summary, the use of wealth as a tax base is predicated on the pursuit of equity, the belief that government has a rightful claim to some part of capital accumulations, and the desire to prevent the undermining of the democratic system by excessive accumulation. The Smith Committee claimed there was no reason why death and gift taxes should have an adverse effect on the economy.

6. The Smith Committee presented fifty-six recommendations dealing with the taxation of wealth.

7. The Smith Committee sought to introduce several new concepts of taxation under the heading of "who should be taxable" and "what should be taxable". Your Committee agrees with many of these recommendations.

8. Your Committee approves the Smith Committee's efforts to bring greater equity to the taxation of wealth and to simplify the method of calculating and paying this form of tax. Your Committee concluded that certain recommendations

The Taxation of Wealth:
Death and Gift Taxes

required further study including the recommendations relating to domicile and residence (Recommendation 28:1), community property (Recommendation 28:8), and provincial gift tax (Recommendation 28:55). On the whole your Committee approved the objectives and methods of achieving greater equity and increased simplification which lead to many of the recommendations. Your Committee was concerned that the Report did not recommend changes in the treatment of quick successions which cause great inequity now in certain circumstances. We comment on this problem and recommend a solution after Recommendation 28:25.

9. In our consideration of succession duties, we noted that there were three basic courses of action that could be pursued: the Federal government could be requested to vacate the death duty field, or, in exchange for additional tax room in other areas, the Province could vacate the field, or, finally, both governments could continue their taxation in this field, but with an attempt to rationalize the two systems in order that they be as compatible as possible. A majority of the members of your Committee felt that there was little likelihood that the Federal government would accede to the request to vacate the death duty field and so no further consideration was given to this possibility.

10. Of the remaining possibilities, several members favoured a compensated provincial abandonment of succession duties. The present joint occupancy of the field necessitates a duplication of administrative apparatus and increases the compliance costs on the part of the taxpayer. While acknowledging these disadvantages of joint occupancy, a majority of your Committee believed it to be desirable to maintain intact the provincial administrative apparatus. Accordingly, we recommend that the Province continue to levy succession duties, and that wherever possible the provincial and Federal taxes be co-ordinated.

The Taxation of Wealth:
Death and Gift Taxes
Recommendation 28:1

11. The recommendations of the Smith Committee on the taxation of wealth are now enumerated with the recommendations and comments of your Committee.

RECOMMENDATION 28:1

Except where a deceased was domiciled in another province of Canada at death, a beneficiary of the deceased who was ordinarily resident in Ontario throughout the twelve months preceding his death be made subject to Ontario succession duty in the same circumstances that he would be subject to duty if the deceased were domiciled in Ontario at death. 28:1

1. We suggest that all the ramifications of this recommendation be further studied. If enacted, succession duties would apply when the deceased was domiciled in Ontario and when the deceased was ordinarily resident in Ontario throughout the twelve months preceding his death. The extension of succession duties to residents of Ontario, who are domiciled elsewhere and who may be citizens of foreign jurisdictions involves many problems not immediately apparent. We are concerned about the effect on international agreements and precedents relating to foreign jurisdictions. This recommendation would unilaterally change the basis on which such agreements were established and retaliatory legislation in other jurisdictions might have adverse effects on our people and our economy. Ontario might find it impossible to justify death taxes on the basis of residence when domicile is the basis in most jurisdictions in the world.

2. Moreover, your Committee felt that the one year residence provision would not recognize our important economic links with the United States and Great Britain. There are in Ontario many subsidiary companies whose head offices are in those countries. It is common practice for foreign

employees of these firms to be posted to Ontario. The question arises, should this class of resident be subjected to the taxation of his world-wide estate. We therefore recommend a further study of the implications of this recommendation.

RECOMMENDATION 28:2

The Government of Ontario make representations to the federal government to change its situs rules to conform with those in force in the provinces, failing which the Government of Ontario request a constitutional amendment allowing the Province to adopt situs rules identical with those contained from time to time in the Estate Tax Act. 28:2

We think that the situs rules applicable to the Federal Estate Tax Act and to the Ontario Succession Duty Act should be identical. In certain areas of situs there is a conflict now between the two acts to the detriment of some taxpayers. We concur with the Smith Committee recommendation and request that the Province attempt to achieve uniformity in this matter.

RECOMMENDATION 28:3

Tax credits be allowed from Ontario succession duty for taxes paid to another province of Canada or a jurisdiction outside Canada in respect of property that under Ontario's situs rules was situated therein, and for 75 per cent of federal estate tax in respect of property that under Ontario's situs rules was situated in a province that does not impose succession duty. 28:3

We endorse this recommendation which would correct a long-standing defect in Ontario law.

RECOMMENDATION 28:4

*Ontario take appropriate steps to eliminate double taxation 28:4
resulting from differing interpretations of the common law
situs rules that are made in other jurisdictions.*

We endorse this recommendation which is an extension of Recommendations 28:2 and 28:3. It would bring consistency, uniformity and equity into the taxation of devolved property.

RECOMMENDATION 28:5

*The Succession Duty Act be amended so as to make it clear 28:5
that any property in which the deceased had a life interest
but which he did not own is not property passing on death.*

We endorse this recommendation which would remove an uncertainty of major dimensions concerning the interpretation of the act and would codify present departmental practices. We recommend, however, that in drafting the legislation the word "own" be carefully defined.

RECOMMENDATION 28:6

*Upon the implementation of our recommendation for the 28:6
imposition of a gift tax, Ontario adopt the test of "beneficial
interest accruing by survivorship" as the method of valuing
joint property regardless of source of contribution.*

1. This recommendation proposed that Ontario adopt the

Recommendation 28:6 28:7 28:8

test of "beneficial interest arising by survivorship" as a method of valuing joint property, regardless of the source of contribution. We consider this recommendation to be highly desirable, and we endorse it.

2. We are of the opinion that this recommendation should not be contingent on the implementation of a gift tax in Ontario and we amend the recommendation by deleting the first line of it, together with the first five words in the second line, so that the recommendation reads as follows.

Ontario adopt the test of "beneficial interest accruing by survivorship" as the method of valuing joint property regardless of source of contribution.

RECOMMENDATION 28:7

Articles of ordinary household furnishings which pass to the surviving spouse or, where there is no spouse, to a qualified dependant with whom the deceased was living at the time of his death, be exempt from duty. 28:7

We endorse this recommendation which would eliminate unnecessary administrative difficulties concerning property whose value is small and whose ownership is unclear. We recommend that the words "ordinary household furnishings" be defined to exclude valuable antiques, works of art and other articles of extraordinary value.

RECOMMENDATION 28:8

For the purposes of The Succession Duty Act, property held in community that was contributed by the deceased be 28:8

deemed to be property passing on death, and a debt created by a marriage contract be disallowed as a deduction in determining the aggregate value of an estate.

The ramifications of this recommendation are many and are presently being studied by the Ontario Law Reform Commission. We recommend that consideration of this recommendation be deferred until the Ontario Law Reform Commission report is available.

RECOMMENDATION 28:9

Life interests be valued according to a modern standard mortality table, and at a compound interest rate that more closely reflects current rates of interest. 28:9

We endorse this recommendation with two qualifications:

- (a) we consider the current rate of interest to be too high for this purpose and we recommend that a rate of interest be adopted which is higher than the present 4% per annum, but lower than the current rate of interest;
- (b) we recommend that separate life expectancy tables be used for men and for women.

The amended recommendation reads as follows.

Life interests be valued according to modern standard mortality tables, one for women and another for men, and at a rate of interest greater than 4% but lower than the current rate of interest.

RECOMMENDATION 28:10

*The provisions of The Succession Duty Act permitting the 28:10
life tenant of an estate to pay duties on an instalment basis
be continued but*

- (a) the amount of each instalment of duty be computed,
having regard to his expectancy of life according to the
standard of mortality prescribed for the purpose and
not to any fixed maximum number of years, and*
- (b) the amount be payable in equal annual instalments of
duty and compound interest computed at the same rate
as is used for determining the value of the life interest.*

We endorse this recommendation which would continue instalment payments of duty for life tenants and a more realistic method of calculating instalment payments. Because we see no justification for requiring a life tenant to pay duty on a life income that he has not received we endorse the instalment basis of payment. We see no justification for not including interest when computing the instalments of duty. The requirement at present setting a maximum of ten annual instalments is arbitrary and inequitable. It should be deleted.

RECOMMENDATION 28:11

*Where a life tenant elects to pay his duties on an instalment 28:11
basis, the instalment payments be payable for the duration
of his life tenancy whether this be longer or shorter than
the life expectancy upon which the instalments were com-
puted.*

We endorse this recommendation. It proposed a more equitable method of paying succession duties on the instalment basis by relating the payment of duties directly to the value of the interest received, and follows from Recommendation 28:10.

RECOMMENDATION 28:12

*Where the life tenant has chosen to pay his duties by instal- 28:12
ments and the duties payable by a remainderman have been
computed and settled as at the date of death of the deceased,
the remainderman's duties be recomputed when he falls into
possession, having regard to the actual duration of the life
tenancy, and a refund be made or additional duties collected
accordingly.*

We endorse this recommendation. It follows from Recommendations 28:10 and 28:11, and would require an adjustment in the duties to be paid by the remainderman as of the date when he falls into possession. The value of the interest of the remainderman would be recomputed to reflect the actual life span of the life tenant.

RECOMMENDATION 28:13

*The provisions of The Succession Duty Act permitting the 28:13
life tenant of an estate to pay his duties within six months
of the death of the deceased be continued, but*

- (a) no interest be allowed for paying at that time rather than by instalments, and*
- (b) the duties of the life tenant and those of any remainderman that were settled as of the death of the deceased not be recomputed upon the termination of the life interest.*

We endorse this recommendation. It follows from Recommendations 28:10, 28:11 and 28:12. It would allow the life tenant and the remainderman to pay the succession duties in one lump sum, thereby permanently settling the obligation.

RECOMMENDATION 28:14

The Succession Duty Act provide the following rules for the 28:14 computation and payment of duties where one or more beneficiaries have an interest in expectancy in the income of an estate that would fall into possession upon the decease of a preceding life tenant:

- (a) *If the primary life tenant elects to pay his duties by instalments, the duties be computed on the basis of the life expectancy of himself and those beneficiaries that have an interest in expectancy in the income that would be enjoyed after the death of a predecessor life tenant; and such instalments be paid by him for his lifetime and after his death by each succeeding life tenant for the period of his enjoyment;*
- (b) *If the primary life tenant chooses not to pay his duties by instalments, the duties on an interest in expectancy be payable,*
 - (i) *within six months of the death of the deceased,*
 - (ii) *within six months of the date he commenced to enjoy his interest in expectancy, or*
 - (iii) *by equal annual monthly instalments of principal and interest payable for his lifetime and computed according to his life expectancy at the date he commences to enjoy his interest in expectancy,*
as the beneficiary may elect;
- (c) *If the primary life tenant elects to pay his duties by instalments, the remainderman's duties be recomputed when he falls into possession, having regard to the actual duration of the life tenancies, and a refund be made or additional duties collected accordingly; and*
- (d) *If a succeeding life tenant elects to pay his duties by instalments, the remainderman's duties be recomputed when he falls into possession, having regard to a duration of the life tenancies deemed to be the life expectancy of the primary life tenant plus the number of years that the tenancy was enjoyed by the succeeding life tenant.*

1. We are concerned about the effect of this proposal in a situation where there is more than one life tenant. The Smith Committee proposed that the annual payment of duties

by each life tenant be the same (assuming that each is paying on the instalment basis). The Smith Committee suggested that the use of the life expectancy of the group, i.e. the longest life expectancy, would provide a reasonably accurate determination of the duties of each life tenant. We are not convinced that this is the case.

2. We are concerned about the effect this may have on the duties payable where a stranger life tenant (entitled to no exemption) is secondary to the widow (entitled to the widow's exemption) who is primary life tenant. We recommend that the duties of each life tenant be computed independently of the expectancy or method of payment of duties of any other life tenant. Similarly, a remainderman should be allowed to pay his duties as of the date of death or to elect to defer payment until he falls into possession, regardless of the method of payment chosen by the life tenant. For these reasons we substitute the following amended recommendation.

The Succession Duty Act provide the following rules for the computation and payment of duties where one or more beneficiaries have an interest in expectancy in the income of an estate that would fall into possession upon the decease of a preceding life tenant:

- (a) If the primary life tenant elects to pay his duties by instalments, the duties be computed and paid on the basis described in Recommendations 28:10, 28:11 and 28:12;
- (b) The duties on an interest in expectancy be payable:
 - (i) within six months of the death of the deceased, as described in Recommendation 28:13,

- (ii) within six months of the date he commenced to enjoy his interest in expectancy, computed on the value of his interest at that time, or
 - (iii) by equal annual instalments of principal and interest payable for his life time and computed according to his life expectancy and on the value at the date he commences to enjoy his interest in expectancy,
- as the beneficiary may elect;
- (c) If the primary life tenant elects to pay his duties by instalments, the remainderman's duties be recomputed when he falls into possession, having regard to the actual duration of the life tenancies, and a refund be made or additional duties collected accordingly; and
 - (d) If a succeeding life tenant elects to pay his duties by instalments, the remainderman's duties be recomputed when he falls into possession, having regard to the actual duration of the life tenancies, and a refund be made or additional duties collected accordingly.

RECOMMENDATION 28:15

An annuity, pension or similar income contract be valued 28:15 according to a modern standard mortality table and at a compound interest rate that more closely reflects current rates of interest.

We endorse this recommendation for the same reasons that we endorsed Recommendation 28:9, and with the same two qualifications as are stated therein. The amended recommendation reads as follows.

An annuity, pension or similar income contract be valued according to modern standard mortality tables, one for women and another for men, at a rate of interest greater than 4% but lower than the current rate of interest.

RECOMMENDATION 28:16

The provisions of The Succession Duty Act permitting the 28:16 beneficiary of an annuity, pension or similar income contract to pay duties on an instalment basis be continued, but that

- (a) the computation of the equal annual instalments of duty include compound interest at the same rate per annum as is used for determining the value of the contract,*
- (b) the amount of each instalment of duty in respect of a contract providing payments for life be computed having regard to the beneficiary's expectancy of life and not to any fixed maximum number of years,*
- (c) the amount of each instalment of duty in respect of a contract providing payments for a term certain be computed having regard to that term and not to any fixed maximum number of years, and*

(d) such instalments be payable for each year during which payments are received under the contract and, where the contract provides payments for life, no further amounts of duty be payable upon termination of the contract before the beneficiary reaches the expectancy of life upon which the duty was computed.

We endorse this recommendation. The recommendation dealt with annuities, pensions and similar income contracts in the same way that Recommendations 28:10 and 28:11 dealt with the estates of life tenants.

RECOMMENDATION 28:17

All payments made voluntarily on or after the death of a 28:17 deceased employee in recognition of services rendered by him be dutiable, with provision for payment by instalments under those circumstances where instalments would be permitted according to our recommendation 28:16 concerning annuities.

We endorse this recommendation. We are of the opinion that all such payments constitute benefits which should be subject to duty; and such payments at present are dutiable under the Federal Estate Tax Act.

RECOMMENDATION 28:18

Upon the implementation of our recommendation for the 28:18 imposition of a gift tax, the proceeds from policies of life insurance payable as a result of the death of the deceased be deemed to be property passing on death only to the extent that the policies were owned by the deceased.

Recommendation 28:18 28:19 28:20

1. This recommendation follows Recommendation 28:6 which proposed a test of ownership as the basis for property passing on death as opposed to a "contribution" test. Our comment under Recommendation 28:6 bears relevance here. This recommendation should not be made contingent on the implementation of a gift tax in Ontario.

2. We amend the recommendation by deleting the first line and the first four words in the second line so that the recommendation reads as follows.

The proceeds from policies of life insurance payable as a result of the death of the deceased be deemed to be property passing on death only to the extent that the policies were owned by the deceased.

RECOMMENDATION 28:19

For purposes of succession duty, statutory recognition be given to the present practice of making allowance for partial consideration in valuing property passing or deemed to pass on the death of the deceased.

We endorse this recommendation which would eliminate the present inequity which could exist in some circumstances. This would codify present departmental practices.

RECOMMENDATION 28:20

The Succession Duty Act be changed to exempt absolute dispositions made more than three years before the death of the deceased rather than five years, as at present.

We endorse this recommendation because it would bring the Ontario Succession Duty Act in line with the Federal act and therefore simplify the administration of death duties and because the length of time recommended is more reasonable.

RECOMMENDATION 28:21

*The affidavits of executors and beneficiaries be required to 28:21
include only those absolute dispositions made within three
years of death of the deceased and dispositions not to the
exclusion of the donor, whenever made.*

We reject this recommendation for the following reason. The law now requiring the affidavits of executors and beneficiaries to report all dispositions made by the deceased during his lifetime is uniform with the Federal Estate Tax Act. The requirement of reporting all known dispositions is a check on whether gifts have been reported properly during the lifetime of the deceased and whether applicable taxes were paid. In this regard the Province should co-operate with the Federal government in identifying unpaid gift taxes.

RECOMMENDATION 28:22

*The amount of any gift tax payable by the deceased in his 28:22
lifetime be dutiable to the extent that it is recoverable as a
deduction from federal estate tax or provincial succession
duties or by way of refund of gift tax.*

We endorse this recommendation which would eliminate the tax advantage gained when a large gift is made within three years prior to death. At the present time gift tax is paid which is allowable as a credit against Federal Estate Taxes but is excluded from the aggregate net value

Recommendation 28:22 28:23 28:24 28:25

of the estate for succession duty purposes. The consequence of this in the past has been to reduce properly payable death taxes.

RECOMMENDATION 28:23

A disposition be valued as at the date of the disposition. 28:23

We endorse this recommendation which would resolve the present inequity caused when a gift of property is made within five years of the death of the deceased and which may have appreciated or depreciated in value. In the past this has caused inequities when compared to a gift of money made at the same time which would not have changed in dollar value.

RECOMMENDATION 28:24

*The Succession Duty Act require that as a general principle 28:24
all dutiable property be valued at its fair market value.*

We endorse this recommendation. The principle proposed is an improvement on the present practice. Fair market value is a well-understood standard of value and can be applied readily for purposes of the Succession Duty Act.

RECOMMENDATION 28:25

*The executor or administrator of an estate be given statutory 28:25
authority to elect, on behalf of the beneficiaries collectively,*

that dutiable property and transmissions be valued as at 150 days after the date of death, except that assets sold before that date to persons with whom the executor was dealing at arm's length be valued at the amounts realized on their sale.

1. We endorse this recommendation subject to the following important qualification. The filing of a succession duty return on the basis of the value at the date of death should not prejudice the executor's ability to re-elect, and to file an amended return based on the value as at 150 days after the date of death, and that the executor have the option of re-electing at any time within one year of the date of death of the deceased.

2. The qualification that we have added to the recommendation has the following two-fold advantage. From an administrative point of view, it would allow executors to file returns prior to the 150th day after the date of death, and therefore all returns would not as a matter of course be filed only after the 150th day which your Committee thinks would be the case otherwise. Secondly, we see no reason why the election must be exercised within six months of the date of death, and we think that in some cases one month may not be a sufficient period of time within which to properly consider the possibility of an election. Therefore, we recommend that an executor be given the right to elect within one year of the date of death of the deceased, provided that interest be charged for any duties that are not paid within six months of the date of death.

3. At this point we note that the Smith Committee discussed quick successions without offering a recommendation. We observe that at present hardship is caused when the principal beneficiary, for example the wife of the deceased, dies at the same time or within a short time of the deceased as a result of a common accident. In such cases, under the Ontario act, two sets of succession duties must be paid although the beneficiary had neither the

Recommendation 28:25 28:26 28:27

power to direct nor the use of the estate. This hardship is obviated by the Federal Estate Tax Act which reduces the value of property passing on a prior death by 50% when the beneficiary dies within one year of the first deceased and by smaller percentages for five years. We recommend that a provision for quick successions similar to the Federal Estate Tax Act be implemented in the provincial legislation.

RECOMMENDATION 28:26

*Appropriate provision be made for adjusting or refunding 28:26
duties when a liability, including a liability that was con-
tingent at the death of the deceased, becomes payable after
the duties have been settled, provided the liability or liabili-
ties so payable exceed \$1,000.*

We endorse the recommendation which would introduce a provision for adjusting or refunding duties if liabilities of the deceased at his death are discovered after the succession duty return is filed. We recommend that the term "liability" in this recommendation be defined to include real estate commissions paid or payable by the estate if such sale had to be made in the course of administration of the estate.

RECOMMENDATION 28:27

*All expenses in connection with the death and funeral of the 28:27
deceased that are paid from the estate be treated as deduc-
tions in computing aggregate net value.*

We endorse the recommendation because we think all expenses in connection with the death of the deceased should be allowed as deductions in determining the aggregate net

value of the estate. Present limitations are undesirable.

RECOMMENDATION 28:28

Amounts paid, not exceeding the standard tariff of the applicable county law association, for legal services in preparing application for and obtaining probate or letters of administration, preparing succession duty and estate tax returns, and preparing notarial copies of letters probate or letters of administration, be allowed as deductions. 28:28

1. We endorse this recommendation with the qualification that if the total of the legal fees is not known, 1% of the aggregate value of the estate or \$500.00, whichever is the greater, should be allowed.

2. We also recommend that the Province should allow the deduction of fees paid for other professional services required in the preparation of documents for succession duty and estate tax purposes, or for the valuation of the estate's assets.

RECOMMENDATION 28:29

- (a) *Dispositions to bona fide religious, charitable and educational organizations made within three years of the death of the deceased be included in the aggregate net value of an estate;* 28:29
- (b) *bequests to bona fide religious, charitable and educational organizations not be deductible in computing the aggregate net value of an estate; and*
- (c) *such dispositions and bequests be exempt from duties to the extent of the amounts actually paid or payable to such organizations outside Canada as may be prescribed by the Lieutenant Governor in Council and to all such organizations in Canada.*

We reject this recommendation. We agree that the tax avoidance scheme described in paragraph 125 of Volume III of the Report should be eliminated in the same way as it has been in the Federal Estate Tax Act. We conclude that dispositions or bequests to charity should not be included in the aggregate net value of an estate for the purposes of determining the rate of tax to be applied to all beneficiaries. We reject the recommendation primarily because it would tend to diminish gifts made to charity but also because it would impose a hardship on the beneficiaries of an estate in which a large disposition or bequest is made to charity. The amended recommendation reads as follows.

- (a) Dispositions to bona fide religious, charitable and educational organizations made within three years of the death of the deceased be excluded from the aggregate net value of an estate;
- (b) Bequests to bona fide religious, charitable and educational organizations be deductible in computing the aggregate net value of an estate; and
- (c) Such dispositions and bequests be exempt from duties to the extent of the amounts actually paid or payable to such organizations outside Canada as may be prescribed by the Lieutenant Governor in Council and to all such organizations in Canada.

RECOMMENDATION 28:30

All the present provisions in The Succession Duty Act for 28:30 giving preferential treatment to relatives and dependants of the deceased be repealed.

1. This recommendation, and the 12 recommendations that follow, set out a completely new system of exemptions and tax rates for the family and dependants of the deceased. The complicated provisions for dependants' allowances, dependants' reductions, increased dependants' reductions, and "preferred", "collateral", and "stranger" rates of tax are removed, and in their place is substituted a simpler and fairer system of exemptions with a single rate of tax. The relatives and dependants of the deceased are granted preferential tax status in the eight recommendations that follow.

2. We therefore endorse this recommendation which would abolish the complex system in existence at the present time.

RECOMMENDATION 28:31

For succession duty purposes, the widow or widower of the deceased be allowed an exemption of \$75,000. 28:31

We agree with the recommendation but we recommend that the \$75,000 exemption be increased to \$90,000. We recommend the increase to \$90,000 because of changes in living costs and living standards since the deliberations of the Smith Committee. Your Committee was of the opinion that the exemption figure in this recommendation should reflect the increased value of the average estate and the increased need for income on the part of widows. This increase is in keeping with the Smith Committee's suggestion that the \$75,000 exemption be reviewed frequently and revised to recognize changes in wages and costs of living. Thus the recommendation would read:

For succession duty purposes, the widow or widower of the deceased be allowed an exemption of \$90,000.

RECOMMENDATION 28:32

For succession duty purposes, in the absence of an exemption to a spouse, the same exemption as for a spouse be given to a person who, during the five years prior to the death of the deceased, resided with him, was dependent upon him and managed his household without remuneration. 28:32

We endorse this recommendation. It would allow the spouse's exemption to a person who had devoted himself or herself to the service of the deceased without pay. We recommend that the word "dependent" should not be defined to exclude from the definition a person who derives some income from sources other than the person deceased.

RECOMMENDATION 28:33

For purposes of succession duty, a child of the deceased under 21 years of age at the death of the deceased be allowed an exemption of \$25,000, and that an older child of the deceased be allowed an exemption of 28:33

*\$22,000 if 21 years of age,
19,000 if 22 years of age,
16,000 if 23 years of age,
13,000 if 24 years of age, and
10,000 if 25 years of age or more.*

1. We endorse this recommendation because it would establish appropriate exemptions for children at levels sufficient to provide for reasonable needs during the period of dependency.

2. We endorse the exemption of \$10,000 for a child of 25 years of age or more because of the traditional responsibility most parents feel towards their children and because a child of the deceased should receive some element of preferential treatment over a stranger. We endorse the

graduated reduction from \$25,000 to \$10,000 as a reasonable system to minimize the difference in tax between the 21st and 25th birthdays of a child.

RECOMMENDATIONS 28:34

For purposes of succession duty, a person be allowed an exemption of \$25,000, if he was at the death of the deceased wholly dependent upon the deceased for support by reason of mental or physical infirmity, and in respect of whom the deceased was entitled to a dependant's exemption under the Income Tax Act (Canada) for the taxation year ending with his death and the taxation year preceding that year. 28:34

We endorse this recommendation. In our opinion adequate provision should be made for a child infirm of body or mind who is not likely to achieve financial independence.

RECOMMENDATION 28:35

For purposes of succession duty, a child of the deceased who has no surviving parent and who had been wholly dependent upon the deceased for support, and in respect of whom the deceased was entitled to a deduction for an exemption under the Income Tax Act (Canada) for the taxation year ending with his death and the taxation year preceding that year, or would have been so entitled if the dependant had then been born, be allowed an additional exemption equal in amount to his normal exemption, provided that if the aggregate of all such additional exemptions to all such children of the deceased would otherwise exceed \$75,000, the additional exemption for each such child be reduced proportionately so that the additional exemptions aggregate \$75,000. 28:35

We endorse the recommendation subject to the \$75,000 figure being increased to \$90,000 (see Recommendation 28:31).

We agree with the Smith Committee that a dependent child without a surviving parent should be allowed a greater exemption but that the additional exemption should not exceed the total amount which would have been exempted if one parent were living.

RECOMMENDATION 28:36

For purposes of succession duty, a grandchild whose deceased parent was a child of the deceased be allowed the greater of any other exemption to which he may be entitled and the exemption that would have been allowed to his parent had the parent been living and sharing in the estate of the deceased, provided that if there are more than one such grandchildren the exemption that would have been allowed to the parent be divided among all such grandchildren. 28:36

We endorse the recommendation because it endeavours to put the child in the stead of his deceased parent where that parent was a child of the deceased testator. We note that the first word in the fourth line of the recommendation, "and", should be replaced by "or". We consider it was the intention of the Smith Committee to grant an alternative exemption and not an additional exemption so the change corrects a typographical error. The amended recommendation reads as follows.

For purposes of succession duty, a grandchild whose deceased parent was a child of the deceased be allowed the greater of any other exemption to which he may be entitled or the exemption that would have been allowed to his parent had the parent been living and sharing in the estate of the deceased, provided that if there are more than one such grandchildren the exemption that would have been allowed to the parent be divided among all such grandchildren.

RECOMMENDATION 28:37

*For purposes of succession duty, the spouse of the deceased 28:37
be allowed an additional exemption equal to the aggregate
of the unused portions of the exemptions to which the
spouse's dependent children were entitled.*

1. We endorse this recommendation subject to amendment. We think that the dependent children of the deceased should be allowed an additional exemption equal to the aggregate of the unused portions of the exemptions to which the spouse and/or the other dependent children were entitled in the same way that the spouse would benefit in the reverse situation. We believe that estates of the same size should receive the same amount of exemption within the family group no matter how the benefits are distributed.

2. Therefore, we amend the recommendation to read as follows.

*For purposes of succession duty, the
spouse or dependent child or children of
the deceased be allowed an additional
exemption equal in total to the aggregate
of the unused portions of the exemptions
to which the spouse or the spouse's
dependent child or children were entitled.*

RECOMMENDATION 28:38

*For purposes of succession duty, the aggregate of the exemp- 28:38
tions allowed to a beneficiary be deductible in computing the
net taxable value of the benefits received by him but not in
computing the aggregate net value of the estate.*

We endorse this recommendation. It would change the present system of allowances by making them absolute exemptions which would be deducted in computing the net taxable value of all benefits received by a beneficiary whether or not that value exceeds his exemption figure. The recommendation would simplify the present complex method of arriving at the tax to be paid by each beneficiary.

RECOMMENDATION 28:39

For purposes of succession duty, all of the present exemptions in respect of small amounts of property passing and small transmissions and dispositions be abolished and there be enacted an exemption for dispositions made in any one year to any one person that do not exceed \$1,000. 28:39

1. We endorse this recommendation. It would raise the present ceiling of exemption for minor gifts from \$500 per person to \$1,000 per person.

2. We also think this recommendation should extend to minor bequests of up to \$1,000 per person, and therefore we amend the recommendation as follows.

For purposes of succession duty, all of the present exemptions in respect of small amounts of property passing and small transmissions and dispositions be abolished and there be enacted an exemption for transmissions and dispositions made in any one year to any one person that do not exceed \$1,000.

RECOMMENDATION 28:40

For purposes of succession duty, 28:40

- (a) *a deduction of \$6,000 be allowed in computing the aggregate net value of each estate, being an amount equal to the aggregate deduction allowable for gift tax in the three years prior to the death of the deceased;*
- (b) *a deduction be allowed in computing the net taxable value on which a beneficiary is liable for duties of that portion of \$6,000 that is reasonably apportionable to him; and*
- (c) *each beneficiary be given a tax credit equal to the amount of gift tax paid or payable by the deceased with respect to gifts made to him by the deceased that are included in the aggregate value of the estate of the deceased.*

We endorse this recommendation only if a gift tax is adopted by the Province. For reasons given in Recommendation 28:55, we do not think that a gift tax should be adopted at this time.

RECOMMENDATION 28:41

The duties payable by a beneficiary be computed as follows: 28:41

- (a) *determine a basic duty by applying a schedule of rates to the aggregate net value of the estate;*
- (b) *determine the beneficiary's rate computed as the average rate of basic duty as a percentage of the aggregate net value of the estate, or 50 per cent, whichever is the lesser;*
- (c) *apply the beneficiary's rate to the net taxable value of the property passing to the beneficiary; and*
- (d) *in the event that the federal estate tax is continued, reduce the resultant amount of Ontario duties by a percentage equivalent to the unabated portion of the federal estate tax.*

1. We endorse parts (a), (b) and (c) of this recommendation which would establish a simpler method of calculating the tax rate and the amount of tax on the property passing to each beneficiary. In part (b) of this recommendation, however, we recommend the deletion of the words "or 50 per cent, whichever is the lesser", for reasons given in Recommendation 28:42 below.

2. We do not endorse part (d) of this recommendation. A provision such as this would be necessary only if the provincial rate structure were established on the assumption that the Federal government would retire from the estate tax field. On the other hand, if it were concluded that the Federal government will continue in the estate tax field it would seem preferable to set a lower schedule of rates in order that no credit against provincial duties would be necessary. We think that part (d) of this recommendation was inserted because of Recommendation 28:56, the implementation of which we believe to be unlikely.

3. The recommendation is amended to read as follows.

The duties payable by a beneficiary be computed as follows:

- (a) determine a basic duty by applying a schedule of rates to the aggregate net value of the estate;
- (b) determine the beneficiary's rate computed as the average rate of basic duty as a percentage of the aggregate net value of the estate; and
- (c) apply the beneficiary's rate to the net taxable value of the property passing to the beneficiary.

RECOMMENDATION 28:42

*A schedule of rates of basic duty be adopted with rates that 28:42
are progressively higher for each successive additional por-
tion of aggregate net value ranging from 15 per cent to 55
per cent.*

We endorse the principle of progressive rates of duty but we delete the words "ranging from 15 per cent to 55 per cent. We did not have sufficient material before us, nor did we consider it our responsibility to set the rates of duty that should be applied. We believe that rates must be set by the government in keeping with its revenue needs. It is our opinion, however, that the rates which are adopted should not be held at the recommended maximum marginal level of 55 per cent on estates over \$2,000,000. There seems to be no reason why larger estates should not pay more than the 50 per cent maximum contained in Recommendation 28:41(b). We have deleted the words "or 50 per cent, whichever is the lesser" in Recommendation 28:41(b), and delete the words "ranging from 15 per cent to 55 per cent" in this recommendation so that it reads as follows.

*A schedule of rates of basic duty be adopted
with rates that are progressively higher for
each successive additional portion of aggre-
gate net value.*

RECOMMENDATION 28:43

*The present provisions of The Succession Duty Act relating 28:43
to the filing of affidavits be amended*

- (a) to require a beneficiary to include in his affidavit only
particulars of all dispositions made to him and property
passing to him or to his benefit other than under the
will of the deceased or under The Devolution of Estates
Act;*

- (b) *to designate the affidavit of the executor or administrator the "Succession Duty Return"; and*
- (c) *to require the affidavits of the executor or administrator and the beneficiaries to be filed within six months of the death of the deceased.*

We endorse parts (b) and (c) of the recommendation without change. For reasons given in Recommendation 28:21 we amend part (a) of the recommendation to read as follows.

The present provisions of The Succession Duty Act relating to the filing of affidavits be amended

- (a) to require a beneficiary to include in his affidavit particulars of all dispositions made and property passing under the will of the deceased or under The Devolution of Estates Act, that are known to him;
- (b) to designate the affidavit of the executor or administrator the "Succession Duty Return"; and
- (c) to require the affidavits of the executor or administrator and the beneficiaries to be filed within six months of the death of the deceased.

RECOMMENDATION 28:44

*The executor or administrator of an estate be given specific 28:44
statutory power to sell all or part of the property included in
any bequest to a beneficiary if the beneficiary is unable or
unwilling to pay the duties on his bequest.*

We endorse this recommendation. It would resolve the infrequent but insoluble problem which arises when the will does not grant the executor a power of sale or authority to pay succession duties, and when the beneficiary lacks the financial resources to pay them.

RECOMMENDATION 28:45

The right of the beneficiary of an interest in expectancy to defer payment of duties until he falls into possession be continued. 28:45

We endorse this recommendation. It is consistent with Recommendation 28:14 and would prevent hardship when the beneficiary of an interest in expectancy has no resources with which to pay the duty at the date of death of the deceased or may choose not to do so because of the uncertainty of his expectancy.

RECOMMENDATION 28:46

The prohibition against opening or permitting the opening of a safety deposit box or other repository be restricted to one that belongs to or stands in the name of the deceased or his spouse, either alone or jointly with another person, or to which either of them had access; and a person who permits the opening of such box or repository without knowledge of the death of the deceased be not liable for prosecution. 28:46

We endorse this recommendation. It would make the prohibition against opening a safety deposit box more practical and would remove from the prohibition members of the family of the deceased, including distant relatives, who did not hold a safety deposit box jointly with the deceased, and who are prohibited now from entering their

Recommendation 28:46 28:47 28:48 28:49

own safety deposit box. This present provision is impractical, unenforceable and a source of irritation.

RECOMMENDATION 28:47

An officer of each branch of a financial institution that leases safety deposit boxes be appointed an agent of the Treasurer for the purpose of examining and listing the contents of any box where the Treasurer's consent to its release is required. 28:47

We endorse this recommendation because it would eliminate the existing administrative complications in the opening of the safety deposit box of the deceased.

RECOMMENDATION 28:48

The Treasurer be required to issue within a specified reasonable time consents to transfer assets when either the duties have been paid or adequate security for payment has been lodged. 28:48

We endorse this recommendation because it would shorten delays in the issuance of consents to the transfer of assets.

RECOMMENDATION 28:49

Penalties not apply to persons who, with reasonable care, have dealt with assets of the deceased under circumstances in which they were unaware of the death or of the beneficial interest of the deceased in such assets. 28:49

Recommendation 28:49 28:50 28:51 28:52

We endorse this recommendation because it would reduce the severity of penalties imposed now on innocent parties who violate the prohibition through ignorance of the interest of the deceased in the property transferred or through ignorance of the fact of the death of the deceased.

RECOMMENDATION 28:50

The statutory authority to allow postponement of duty given to the Lieutenant Governor in Council under Section 23 of The Succession Duty Act be transferred to the Treasurer of Ontario. 28:50

We endorse this recommendation in the interests of administrative efficiency.

RECOMMENDATION 28:51

If the government finds that special succession duty treatment is desirable in the interests of woodland conservation, executors and administrators of estates be given the right to elect under specified conditions to pay the duty on timber, based on its value at the time of death, as it is cut or sold. 28:51

We endorse this recommendation which would encourage proper forest management and woodlot conservation.

RECOMMENDATION 28:52

The statute provide that the Treasurer be required to issue with due dispatch a notice of assessment of duty to each person who benefits from an estate or from dispositions by the deceased, whether duty is payable by him or not, and that a duplicate of each such notice be issued to the executor or administrator of the estate. 28:52

We endorse this recommendation. It would improve the procedure for the assessment and assessment appeals. We think that the term "within a specified reasonable time" used in Recommendation 28:48 should be used in this recommendation also because the words "with due dispatch" are vague. The recommendation is amended to read as follows.

The statute provide that the Treasurer be required to issue within a specified reasonable time a notice of assessment of duty to each person who benefits from an estate or from dispositions by the deceased, whether duty is payable by him or not, and that a duplicate of each such notice be issued to the executor or administrator of the estate.

RECOMMENDATION 28:53

A beneficiary subject to duties on Ontario property and dispositions from a deceased who was neither domiciled nor resident in Ontario be assessed duties on the aggregate net value thereof without reduction for exemptions, unless all such beneficiaries and the executor or administrator of the estate elect that duties be computed in the ordinary manner, in which event the exemptions for each beneficiary be the proportion of the normal exemptions that the aggregate net value of property and dispositions dutiable to him in Ontario is of the aggregate net value of all property and dispositions by which he benefited. 28:53

1. We endorse the recommendation because it is reasonable from an administrative point of view but we recommend that an exemption be added to eliminate minor holdings in Ontario of \$1,000.00 or less.

2. We further recommend that the Province request the Federal government to change from a flat 15% Federal tax on the value of all assets in Canada owned by foreign estates to a graduated tax such as is proposed in this recommendation to provide consistency between the Estate Tax Act and The Ontario Succession Duty Act. The amended recommendation reads as follows.

A beneficiary subject to duties on Ontario property and dispositions, aggregating in excess of \$1,000.00, from a deceased who was neither domiciled nor resident in Ontario be assessed duties on the aggregate net value thereof without reduction for exemptions, unless all such beneficiaries and the executor or administrator of the estate elect that duties be computed in the ordinary manner, in which event the exemptions for each beneficiary be the proportion of the normal exemptions that the aggregate net value of property and dispositions dutiable to him in Ontario is of the aggregate net value of all property and dispositions by which he benefited.

RECOMMENDATION 28:54

*All dividends having an Ontario situs declared but not paid 28:54
prior to the death of a deceased who was neither domiciled
nor resident in Ontario be exempt from succession duties.*

We endorse this recommendation which would eliminate a minor nuisance. It appears to us that the Smith Committee erred unintentionally in the wording of their recommendation. We think it did not intend to exempt from succession duties those dividends having an Ontario situs and passing to a beneficiary who is either domiciled or resident in Ontario.

We alter the recommendation to read as follows.

All dividends having an Ontario situs declared but not paid prior to the death of a deceased who was neither domiciled nor resident in Ontario be exempt from succession duties where the beneficiary is neither domiciled nor resident in Ontario, and be subject to succession duties where the beneficiary is domiciled or resident in Ontario.

RECOMMENDATION 28:55

*Ontario introduce a gift tax applicable to individuals and 28:55
personal corporations with the same rate structure as recom-
mended for succession duties, and that:*

- (a) a gift to any government in Canada be exempt;*
- (b) gifts to recognized charitable, educational or religious organizations be exempt;*
- (c) gifts made by an individual in the year to any one person not exceeding \$1,000 in the aggregate be exempt;*
- (d) a general exemption of \$2,000 be allowed each year to an individual with respect to otherwise taxable gifts;*
- (e) gifts used directly or indirectly to pay a premium on any contract of insurance on the life of the donor be excepted from the exemptions in (c) or (d) above; and*
- (f) gifts that would be exempt under (d) and gifts exceeding \$1,000 in the year to any one organization that would be exempt under (b) be included in the aggregate value for purposes of determining the rate of taxation, but be excluded from the net taxable value subject to the tax.*

1. We agree with the principle of a gift tax but we recommend that the Legislature not implement this recommendation until the Province has made every effort to

negotiate an agreement with the Federal government to eliminate duplication in the administration and collection of succession duties and gift taxes.

2. If a gift tax were implemented in Ontario, we would endorse parts (a), (b), (c) and (d) of Recommendation 28:55, but would reject parts (e) and (f) of the recommendation. We reject part (e) as impractical and undesirable. We reject part (f) for reasons similar to those given in rejecting Recommendation 28:29, that is, gifts to charity would be discouraged.

RECOMMENDATION 28:56

*Ontario make representations to the Government of Canada 28:56
to withdraw from the death tax field on the understanding
that Ontario succession duty returns and files would be made
available to federal officials for income tax purposes.*

1. The Smith Committee described the present situation as "a needless and extravagant duplication". Your Committee agrees with the conclusion that death taxes should not be levied by two levels of government. At the same time we doubt that the Federal government will vacate this tax field particularly since only three of the provinces levy their own succession duties. Your Committee is of the opinion that the taxation of wealth can be administered most efficiently by a single levy with a single administration.

2. Your Committee's additional observations are contained in paragraphs 9 and 10 of the preamble to this chapter.

DISSENTING OPINIONS ON RECOMMENDATIONS IN CHAPTER 28

DISSENT 1: RECOMMENDATIONS 28:18 and 28:29

Mr. Lawlor stated:

1. On the contrary, dispositions or bequests to charity should be included in the aggregate net value of an estate for the purposes of determining the base rate in accordance with this Recommendation. Certainly the present loophole must be plugged, but beyond this, the very just initial remarks in the chapter will bear less fruit and have an even lesser meaning if this set of exclusions, which go contrary to the basic logic of this Report's intentions and our own agreement as these are outlined under three heads at the beginning of our commentary, are given effect.

2. It is, in my opinion, a straight sociological prejudice and reversion to older habits of thought, to, in effect, give priority to private charities to private predilections for cats or new egotistical-philanthropic alphabets a la Bernard Shaw over against the public weal. Actually charitable gifts themselves should be taxed but at a lower rate. In any case, the charity itself presently is not being taxed; all that is done, is to set a rate coterminous with the total value of accumulations, as with any other estate of precisely the same size but divided up differently. Anomalies are created, between quantitatively equal estates by the rejection of this Recommendation, and a goodly revenue lost.

3. Our present rate structures are sufficiently deficient and avoidance schemes (not to speak of evasions) are already multiple and grievous enough to give us pause in the face of further such unnecessary alleviations (I say "unnecessary" because it would probably have little effect one way or the other on those who wish to give to charities); and estates, passing to heirs (except for widows and dependants) are largely, in any case, in the nature of windfalls, so that the term "hardship" has little relevance. Probably, except in a limited number of cases, wealth might not be permitted to pass from

generation to generation anyway.

DISSENT 2: RECOMMENDATION 28:55 (e) and (f)

Mr. Lawlor stated:

1. As to (f), I have already expressed my sentiments under 28:18. Please refer.

2. As to (e), the Smith Committee's comments in Paragraph 217, page 205, Vol. III, seem to me incisive and pertinent. To reject their proposal is to depart from a principle of the maintenance of the true net aggregate value of an estate, particularly if one were to reject the gift tax for Ontario, which Smith does not do and I think ought not to be done whether or not the Federal government complies.

3. The Smith Report states: "A sizeable policy of life insurance can be purchased and paid for out of gifts of \$2,000 each year, thereby significantly decreasing the tax base for the succession duty without any corresponding payment of gift tax. The same sum invested in securities to fetch a commensurate yield would involve risks of a kind not borne by insurance.

4. To reject Smith's recommendation opens the way even wider to a present means of tax avoidance.

CHAPTER 29

THE RETAIL SALES TAX

1. The discussion of the Retail Sales Tax by the Ontario Committee on Taxation was predicated on the acceptance of consumer expenditures as a suitable tax base for raising substantial revenues. While it conceded that income is probably the best single index of ability to pay, it decided that actual expenditures on goods and services reflect a taxpayer's spending power, and hence are a useful complementary index of ability to pay. It also noted that equity would be served if the consumption base were designed to tax persons who have enjoyed the benefits of government expenditures but who have not, for one reason or another, made an appropriate contribution under the income tax.

2. There are various ways in which the consumption base can be utilized, and the Smith Committee considered the comparative merits of turnover taxes, a tax on value-added, and the single stage retail sales tax. The turnover tax was dismissed as unsatisfactory because of the pyramiding which occurs when the tax is levied and relieved at each stage of the productive and distributive processes, and because of the advantage enjoyed by vertically integrated business enterprises with such a tax. The primary difficulty noted in connection with the tax on value-added is that it would be confined to value added within the Province; in the absence of offsetting compensations a product manufactured in whole or in part outside and sold in the Province would enjoy a tax advantage over one which was both manufactured and sold in the Province. Equity could only be achieved at the cost of complexity, and with the Retail Sales Tax available this seemed to the Smith Committee to be unnecessary.

3. Having decided that the Retail Sales Tax was the best consumption-based tax for the Province to levy, the Smith Committee examined the economic effects. It was their conclusion that the tax is borne by consumers in proportion to their expenditures on taxed items, and that the

The Retail Sales Tax

resulting pattern of burden is roughly proportional to family income. The principle was accepted that food should continue to be exempt from the tax, and the pattern of burden which emerges when this is done was thought to be reasonably satisfactory.

4. The Smith Committee argued that at the present rate of 5 per cent, the tax is unlikely to cause any widespread undesirable economic effects. It was suggested that the exemption of producer goods be widened thereby minimizing any adverse effects upon production, and, most important, it was suggested that the base be broadened to include a wide range of consumer services. This broadening of the base was upheld as a means of improving the equity of the tax and as a method of improving the yield while avoiding the distortions that might result from the application of higher rates to a narrower base.

5. There are several issues that arise in connection with the equity of the Retail Sales Tax. There can be no doubt that the inclusion of consumer services in the tax base would render the tax more equitable. The proportion of income spent on services tends to rise with income and the inclusion of services in the tax base will tend therefore to make the burden of the tax more progressive. There can be no doubt also that the exemption of all food products, as recommended in Recommendation 29:1, would remove most of the regressiveness that would otherwise be present in the burden of the tax. It is necessary for your Committee to enquire, however, if this is the most satisfactory method of reducing the regressivity of the tax.

6. While conceding the gain in equity which would result from the exclusion of all food from the tax base, it is necessary to note the revenue loss accompanying this exemption. The Smith Committee estimated that, at a given tax rate, no less than 40 per cent of the potential revenue is lost. The addition of other tax exempt "necessities" would increase this percentage. It is not

The Retail Sales Tax

surprising that enhanced equity has to be acquired at the cost of revenue loss, but it is necessary to enquire whether or not the same gain in equity could be obtained by an alternative device and at a lower cost in terms of revenue lost. It is the opinion of your Committee that the same gain could be obtained more cheaply by means of a Retail Sales Tax credit.

7. Conceptually, the sales tax credit, which has recently been adopted by six states in the United States, is a simple device. It provides a credit against state or provincial income tax, when the amount of the credit is equivalent to the refund of the retail sales taxes on a given level of expenditures. For example, if it were decided to permit each person an exemption of \$400 of consumption expenditures, the same result could be achieved by a per capita credit of \$20 (the amount of tax that would be payable on expenditures of \$400 if the Retail Sales Tax were levied at a rate of 5 per cent). This would amount to a family credit of \$100 for the average family of five for food alone (estimated to be approximately \$2000 gross) plus whatever additional credits might be allowed for Basic Shelter, drugs, children's clothing, etc. This would be claimed as a credit against income tax on the filing of an income tax return. When the amount of the credit exceeded the income tax liability, or when the liability was zero, a refund would be paid. This would have the effect of introducing a form of negative income tax with the interesting and flexible potential that this would offer for broader application in the future.

8. The comparative merits of a sales tax exemption and a sales tax credit are best demonstrated by considering two equal-yield sales tax systems, one of which exempts food purchases for home consumption, while the other provides a flat per capita credit equal in total cost (that is, revenue reduction) to the food exemption. It should be apparent that when two persons differ with respect to their preferences for food and non-food expenditures, they will pay different amounts of sales taxes under the food

The Retail Sales Tax

exemption approach regardless of the fact that they may have identical incomes and total consumption expenditures. It follows that the fundamental rule of equity -- that equals should be treated equally -- will be violated. This result does not depend upon food being the item exempted: whatever items are chosen for exemption, consumers with strong preferences for them will be benefitted vis-a-vis other consumers. Also, by exempting particular commodities, relative prices will be changed and the efficiency of the market mechanism undermined.

9. In contrast to the food exemption, the sales tax credit would permit the taxpayers to apply the "exemption" to whatever taxable commodities they might choose. Regardless of the direction of expenditure, the amount of the credit would be the same. In consequence, it would disregard different consumption patterns, and would be a superior vehicle for assuring the equal treatment of equals.

10. When income levels differ, the advantage of the credit approach is even more pronounced. Because of the tendency of high income families to consume more expensive types of food, the dollar value of the food exemption now rises with income. The flat-rate credit, on the other hand, is unaffected by the level of income: each taxpayer would reclaim an income tax credit of the same amount. In addition, the credit would virtually eliminate the sales tax burden on low-income families, and could actually exceed total sales tax payments. It would tend, therefore, to produce a more progressive distribution of burden, even for low-income groups where the present system, including the food exemption, is still somewhat regressive.

11. It should also be observed that while the food exemption does remove much of the regression of the sales tax burden over most (but not all) of the income range as presently constituted, it does so in a manner which is arbitrary and capricious. Many factors, including income

level, family size and age distribution, ethnic characteristics, and tastes all influence food consumption. If a particular pattern of burden is desired, it must be concluded that exemptions of food are a very crude way to obtain it. The effect of the flat-rate credit is much more certain, and the desired pattern of burden more likely to be achieved. This is especially true if varying credits are used of the sort to be noted below.

12. The foregoing paragraphs have attempted to demonstrate that, from the point of view of equity, the sales tax credit is superior to a food, or any other, exemption. This superiority is found also when the argument is one of efficiency as measured by the revenue loss necessary to achieve a particular objective.

13. In general, commodity exemptions are a crude and therefore costly device for providing relief to particular groups of taxpayers. One example should serve to make this clear.

14. Consumption studies have shown that persons over 65 years of age spend almost twice as large a proportion of their income on medicines and drugs as persons in the age group 18 - 35. It is apparent that age should be an important factor in providing relief from the sales tax burden on medicines and drugs. Another such factor is income, and, of course, a disproportionate number of those over 65 years of age are found in the low-income classes. An over-the-counter exemption of drugs and medicines cannot differentiate between customers on the basis of age and income. If the poor and the aged are to be exempted, the exemption approach must achieve this by extending the exemption to all, whether or not it is needed. On the other hand, the credit approach could be adjusted, by providing special or additional credits for the aged and the low-income groups, to direct assistance where it is most needed, and this without the loss of revenue that an indiscriminate extension of the exemption would involve.

The Retail Sales Tax

It should also be noted that since the credit would be claimed by filing an income tax return, it would be restricted to residents of the Province.

15. In general, the sales tax credit is a very flexible instrument that could be used to achieve a given pattern of sales tax burden at a much smaller revenue loss than with commodity exemptions. It is possible to vary the amount of credit with the age of the recipient, his income (as is done in Hawaii, for example), his status (student, working wife, etc.), or with respect to any other characteristic which is considered to be relevant. If simplicity is of paramount importance, then of course the simple flat rate credit could be used.

16. The use of the sales tax credit would require all taxpayers to file an income tax return, and this may be a minor disadvantage. Certainly with computer processing of returns it is not a significant difficulty from the administrative point of view. Furthermore, with the introduction of the Canada Pension Plan, the number of persons not filing an income tax return has been significantly reduced. Indeed, some further reduction may actually be welcomed because it is likely that intermittent filers are the source of more administrative problems than would be caused by having everyone file annually.

17. From the point of view of the retailer there is little doubt that the credit approach is the more satisfactory. In the State of Indiana, where a sales tax credit has been in effect since 1965, the Indiana Retail Council has strongly endorsed the credit as opposed to over-the-counter exemptions.

18. It is probably a fair statement that, from the point of view of administration, there is little difference between the credit and exemption approaches but the credit

The Retail Sales Tax

is clearly superior on grounds of both equity and efficiency. Your Committee therefore finds it difficult to understand the Smith Committee's rejection of the credit device. Neither of the criticisms they mentioned seems persuasive. In the first place, they argued that the relief would be delayed if it must be claimed by a year-end filing of an income tax return. It is possible, of course, to adjust the withholding schedules used by employers to calculate regular income tax deductions, and this would effectively place the credit on a receive-as-you-spend basis. In addition, various arrangements could be made for those not having regular income tax deductions, interim rebates possibly being based on the income of the preceding year. The second criticism, that the credits might not be spent on food, missed the point entirely because the major advantage of the credit is that it permits the taxpayer to use the relief in the manner which is most advantageous to him.

19. After careful consideration of the two alternatives, the food exemption proposed by the Smith Committee and the sales tax credit method, your Committee is of the opinion that the sales tax credit is the superior device for reducing the regressiveness of the Retail Sales Tax. We therefore recommend that the sales tax credit be introduced into the revenue system of the Province with the object of improving the equity and efficiency of the provincial sales tax.

20. It should be noted that your Committee supports the Smith Committee recommendation that the Retail Sales Tax base be extended to include services. As noted above, this would tend to make the pattern of burden more progressive. It is our opinion, however, that in selecting services for inclusion in the tax base, a conscious effort should be made to include those services the consumption of which increases more than proportionately with income. Only if this were done would the expansion of the base make a significant contribution to increasing the progressivity of this tax.

21. We discuss in detail each of the recommendations in turn.

RECOMMENDATION 29:1

All food products for human consumption, excluding prepared meals and alcoholic beverages be exempt from retail sales tax. 29:1

We endorse this recommendation until such time as the "Credit Approach" is adopted in the Retail Sales Tax field because it would increase the progressivity of this consumption tax and would eliminate the present problem of trying to distinguish between food and confections.

RECOMMENDATION 29:2

Each commercially prepared meal sold for more than \$1.50 be taxed regardless of the place where it is consumed. 29:2

We concur with the Smith Committee recommendation, the object of which is to tax above-average-priced meals while not imposing hardship on those who must buy commercially prepared meals at their own expense. We suggest that special care be taken when defining the term "commercially prepared meal". While the intent of the recommendation is to include take-out food, presently exempted when not consumed on the vendor's premises, it could include take-out and pre-cooked foods prepared by grocery stores. A clearer definition of the term "meal" would eliminate potential abuse of this exemption.

RECOMMENDATION 29:3

The present exemptions from sales tax be reviewed and revised so that: 29:3

- (a) all purchases of machinery, equipment and other goods that enter into the direct costs of manufacturing and producing will be exempt; and*
- (b) purchases of all goods entering into indirect costs of manufacturing and producing will be taxable.*

Your Committee agrees with the philosophy behind this recommendation but believes that for the equity and administrative efficiency of Ontario industries the exemption of production machinery should coincide with that contained in the Federal Excise Tax Act. In this connection your Committee recommends that all items exempt from Federal sales tax by virtue of their inclusion in Part XIII of Schedule III to the Excise Tax Act should also be exempt from Ontario Retail Sales Tax. We amend this recommendation to read as follows.

The present exemptions from sales tax be reviewed and revised so that all purchases of machinery, equipment and other goods that are exempt from Federal sales tax, by virtue of their inclusion in Part XIII of Schedule III to the Excise Tax Act will be exempt.

RECOMMENDATION 29:4

The present provision exempting all sales of less than 21¢ be amended to exempt sales of less than 11¢. 29:4

We do not accept this recommendation. The amount of revenue gained would not be large enough to warrant a change in well-established administrative practices.

RECOMMENDATION 29:5

The present exemption from sales tax for draft beer sold by the glass on licensed premises be repealed. 29:5

We reject this recommendation on the grounds that this would increase the expense of tax collection and the inconvenience of consumers. Draft beer is sold in bulk and is subject to a gallonage tax. Our recommendation is in keeping with suggestions made regarding gasoline taxes (Recommendation 30:2). If additional revenues are needed, the one bulk tax should be increased rather than impose a second level of consumption taxation.

RECOMMENDATION 29:6

All exemptions of tangible personal property purchased by or for schools, school boards, universities, hospitals, nurses' residences, religious institutions, Ontario municipalities and publicly supported galleries and museums, and the exemption for buses purchased for public transportation within a municipality be repealed. 29:6

We accept this recommendation in general but conclude that religious institutions should be allowed to keep their exemption. We accept it on the understanding that the payment of sales tax by these public organizations would be offset by increased provincial grants. Our reason for exempting religious institutions is that all other organizations named in this recommendation would recover the sales tax paid via grants except for the religious institutions. We therefore recommend striking out the words "religious institutions" from this recommendation which now reads as follows.

All exemptions of tangible personal property purchased by or for schools, school boards, universities, hospitals, nurses' residences, Ontario municipalities and publicly supported galleries and museums, and the exemption for buses purchased for public transportation within a municipality be repealed.

RECOMMENDATION 29:7

The exemption of books, magazines, periodicals and religious and educational publications be repealed. 29:7

Your Committee is opposed philosophically to taxing the flow of information and knowledge and we therefore reject this recommendation. The present exemptions on books, magazines, periodicals and religious and educational publications should be continued.

RECOMMENDATION 29:8

The exemption of students' supplies be repealed. 29:8

For reasons of administrative efficiency your Committee accepts this recommendation. Not only is expenditure on stationers' supplies a relatively small portion of a student's total expenditures, but present regulations provide a source of evasion. It is complicated to apply and a continuing problem of administration.

RECOMMENDATION 29:9

*The Retail Sales Tax Act be amended so as to impose tax on 29:9
an appropriate list of services other than*

- (a) educational, medical, dental, health, funeral and transportation services,*
- (b) services the dominant use of which is made by business firms,*
- (c) repair and maintenance of real property, and*
- (d) services that cannot be conveniently taxed.*

1. Your Committee is in agreement with the inclusion of services in the base of the Retail Sales Tax. Not only would the inclusion of services be an important source of revenue but it would reduce substantially the regressivity of the Retail Sales Tax. Consumer expenditures are made for both goods and services and it is artificial to levy taxes on goods but not on services.

2. In selecting the list of services to be taxed a principal object should be to increase the progressivity of the tax. We caution the Legislature against the wholesale adoption of the list provided in the Smith Committee Report. Rather we suggest that a more complete review should be made to determine the total effect (that is, on progressivity, administrative feasibility, competition) of including or exempting various classes of services. The enacting legislation should provide the responsible Minister with the power to tax services in principle while allowing him to introduce various classes into the tax base by degrees and after consultation with the vendors affected.

3. The revenue available from services alone cannot be accurately determined without a clear delineation of taxable and non-taxable services but if all of the Smith Committee's recommendations were accepted regarding this base, revenues would increase according to the Smith Report by an estimated \$128 million.

RECOMMENDATION 29:10

The Ontario retail sales tax audit staff be enlarged sufficiently to ensure an adequate enforcement program. 29:10

While the Smith Committee showed that tax recoveries exceed increased expenditures on audit staff, it also advanced the more persuasive argument that no system which permits evasion is equitable. Your Committee therefore endorses this recommendation because it would provide a greater measure of compliance, enhanced equity, and increased revenues.

RECOMMENDATION 29:11

Ontario discontinue the payment of remuneration to vendors for the collection of the retail sales tax. 29:11

We agree with the Smith Committee that the collecting and remitting of taxes has come to be considered one of the normal costs of doing business in modern industrial states. While the cost of installing special equipment and procedures may have originally justified a collection payment, the adjustment period has long since passed. In endorsing this recommendation we further note that the discontinuation of this practice will add \$6 million to the provincial treasury with little financial effect on individual retailers.

RECOMMENDATION 29:12

*The Province be made a preferred creditor rather than a 29:12
secured creditor with respect to sales taxes not collected by a
bankrupt vendor but for which he has been assessed.*

In the case of a bankruptcy, taxes collected, or assessed but not collected, are deemed to be held in trust with a lien placed on the assets of the bankrupt vendor until the tax is remitted. Your Committee endorses this recommendation because it thinks that present regulations provide the Province with too high a position in the order of creditors when the tax has not been collected. We note also that such a lien is in conflict with the priorities established in the Federal Bankruptcy Act in those circumstances.

RECOMMENDATION 29:13

*The provision in The Retail Sales Tax Act giving the Comp- 29:13
troller authority to determine the fair value of taxable
property be repealed.*

We agree with the Smith Committee that the provision of discretionary power to the Comptroller to determine fair value of taxable property has never been abused but that it is undesirable for any civil servant to be able to increase or decrease a tax by discretion. We therefore endorse this recommendation which would ensure that fair value is a matter of fact and not of discretion.

RECOMMENDATION 29:14

*The definition of "use" in The Retail Sales Tax Act be 29:14
changed to exclude storage of goods that are held for resale.*

The Retail Sales Tax provisions now produce anomalies with respect to the definition of the word "use". One of these is that the tax could be applied to goods placed in storage, which goods could be taxed again when removed from storage to be sold at retail. On the grounds of equity we can see no reason why goods which are stored should be subject to this double taxation and therefore we endorse this recommendation.

RECOMMENDATION 29:15

*The deposit or bond of 3 per cent of the total contract price 29:15
required of non-resident contractors carrying out a contract
in Ontario be revised to relate more closely to the proportion
of construction contract prices ordinarily represented
by sales tax.*

Your Committee endorses this recommendation noting that the deposit required from non-resident contractors at the present time seems to be in excess of the amount of Retail Sales Tax for which they are likely to be liable even in the unlikely event that all materials were purchased outside the Province.

RECOMMENDATION 29:16

*The definition of non-resident contractors be changed to 29:16
exclude corporations that are incorporated in Ontario.*

On grounds of equity, we endorse this recommendation. At present, resident contractors who have not been incorporated for at least 12 months would be unjustly subject to the deposit requirements.

RECOMMENDATION 29:17

*Rentals of tangible personal property be taxable except on 29:17
the amounts provided therein for*

- (a) property and services on which the lessor was subject
to tax, and*
- (b) interest and other financing costs.*

We agree with the recommendation but for administrative reasons we think that any relief should be granted through a continuance of the present system of taxing only a percentage of the rent.

RECOMMENDATION 29:18

*The present exemption for gifts be enlarged to exempt from 29:18
retail sales tax all gifts from one individual to another,
including those made by way of transactions for inadequate
consideration.*

1. We agree with the intent of this recommendation which is to make gifts exempt from Retail Sales Tax on the assumption that the articles were subject to sales tax when acquired by the donor. We envisage numerous difficulties, however, with the phrase "including those made by way of transactions for inadequate consideration". We think that the Smith Committee contemplated a situation such as that in which a father sells a car or other article to his

child for less than its fair market value. The object of our revision is to treat such a transaction in two parts. The exchange of money would be considered as a taxable sale while the unpaid difference between sale price and fair market value would be considered the gift portion of the transaction, and therefore non-taxable.

2. We do foresee instances in which vendors selling at special sales prices could argue that their transactions were made for inadequate consideration and hence were tax-exempt. The possibility would exist of inadvertently exempting all goods which were transferred by way of a special "sale". We therefore suggest ending this recommendation at the word "another" with the understanding that we intend the word "gifts" to include our interpretation of transfers for inadequate consideration which was illustrated previously. The amended recommendation reads as follows.

The present exemption for gifts be enlarged to exempt from retail sales tax all gifts from one individual to another.

RECOMMENDATION 29:19

The Government of Ontario negotiate with the other provincial governments to establish more effective means of collecting sales tax on goods sold in one province that are delivered to customers in another province. 29:19

Your Committee endorses this recommendation which would have a salutary effect on purchasers who might otherwise be tempted to forget their sales tax obligations to their home province. In accepting this recommendation, however, we wish also to avoid taxing any purchaser twice. Hence, the Retail Sales Tax should not be collected both in the vendor's and in the purchaser's province, which is possible at the present time. Such a problem arises, for example, when a Quebec resident temporarily living in Ontario purchases an automobile and pays the 5% Ontario sales tax. On returning to Quebec and registering his car, that province requires him to pay their 8% sales tax. The

purchaser in this situation is required to support the revenue systems of two provinces. The inequities in both directions should be eliminated by interprovincial negotiations.

RECOMMENDATION 29:20

The Government of Ontario, together with the other provincial governments, negotiate with the federal government to obtain its agreement to collect on behalf of the provinces provincial sales taxes upon the importation of goods into Canada. 29:20

We approve this recommendation in principle but think that the practical difficulties resulting from the existence of different exemptions and different rates of Retail Sales Tax in each province make the recommendation impractical. Which tax rate would be applicable to imported goods? If a traveller were to enter Canada at Halifax with his destination Toronto, by way of Montreal, would the appropriate tax be that prevailing in Nova Scotia, Ontario or Quebec? Rather than asking the Federal government to collect retail sales taxes, we replace this recommendation with the suggestion that a better exchange of information be established by the two levels of government regarding imports. In this way each province could collect its own Retail Sales Tax from its own citizens on their return.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN

CHAPTER 29

DISSENT 1: RECOMMENDATION 29:1

Messrs. Lawlor and Pilkey stated:

1. While we acknowledge that the "credit approach" may be beneficial for some purposes, we consider it highly questionable as a substitute for the exemption of food from

sales tax and find it most repugnant to consider lifting the exemption from food under any circumstances.

2. In the event that the government does proceed with the credit approach, we desire to point out that the imposition of tax on foods can be made less regressive if certain staple foods are exempted from tax altogether. This is not a novel idea nor is it setting up a double exemption. Indeed, it is the way that retail sales tax is set up in the State of Massachusetts where specified foods are exempt and a tax credit is provided in lieu of an exemption for other foods.

3. Considering the rising prices of bread, milk and certain baby foods this may be a more equitable way of reducing the regressivity of the sales tax.

CHAPTER 30

MOTOR VEHICLE REVENUES

1. In this chapter, the Smith Committee reviewed motor vehicle revenues. It proposed no important departures from the present system except for the abolition of remuneration to "collectors" and "registrants" (Recommendation 30:1) and the imposition of the Retail Sales Tax on gasoline and other motive fuels (Recommendation 30:2). The Smith Committee recommended adjustments in the license and permit fees so that they would approximate the cost of licensing, and recommended the removal of the Skyway tolls which are an anomaly in Ontario.
2. Your Committee has approved the recommendation to eliminate remuneration to "collectors" and "registrants" of the fuel taxes for the same reason that it has recommended the elimination of remuneration to vendors in Chapter 29 of the Report, dealing with the Retail Sales Tax. Your Committee has rejected the recommendation that Retail Sales Tax be applied to gasoline and other motive fuels. We do not believe that there should be a second consumption tax applied if both taxes are paid into the Consolidated Revenue Fund of the Province. We recommend that the existing tax on motive fuels be increased, if added revenues are required, in preference to adding a second tax with the additional expense and inconvenience that this would involve.
3. We note that Chapter 8 of the Report recommended increases in fuel taxes for the years 1968-69, 1971-72, and 1974-75 in order to meet in part the increased requirements of the Province which are estimated to rise from \$2.670 billion to \$4.069 billion by 1975. In our opinion these revenue requirements should have been given more prominence.
4. Hereinafter are set forth the recommendations of the Smith Committee on motor vehicle revenues, each of which is followed by the recommendation and comment of your Committee.

RECOMMENDATION 30:1

*The remuneration for collecting fuel taxes paid to "col- 30:1
lectors" under The Gasoline Tax Act and to "registrants"
under The Motor Vehicle Fuel Tax Act be gradually elimi-
nated over the next five years.*

1. We endorse this recommendation subject to the amendment described below. We share the opinion of the Smith Committee that persons should not be compensated for collecting taxes. Employers are now responsible for the collection of Canada Pension Plan payments, income tax deductions, unemployment insurance deductions, and various other benefit payments and the gasoline tax collector should not be in a preferential position. The collection of taxes, in this case motive fuel taxes, is a cost of doing business in a modern society.

2. We see no reason why the remuneration to these persons should be phased out over a period of 5 years because the small number of large firms involved would be able to absorb this cost without undue difficulty. We revise the recommendation to read as follows.

The remuneration for collecting fuel taxes paid to "collectors" under The Gasoline Tax Act and to "registrants" under The Motor Vehicle Fuel Tax Act be eliminated.

RECOMMENDATION 30:2

*The retail sales tax be levied on gasoline and other motive 30:2
fuel, on a price base that includes any fuel tax that is
applicable.*

We reject this recommendation. We see no merit in imposing a Retail Sales Tax on gasoline and other fuels solely for the sake of consistency with recommendations in Chapter 29. Both the Retail Sales Tax and fuel taxes are paid into the Consolidated Revenue Fund of the Province and if added revenue is required the fuel tax should be increased. There is no need, in our opinion, to complicate the tax structure with added administrative costs in the collection of two consumption taxes from one source.

RECOMMENDATION 30:3

Any fuel tax paid on motive fuel for any use other than that of propelling a vehicle on a public road be wholly refundable, and any sales tax thereon 30:3

(a) be wholly refundable when paid by farmers or commercial fishermen, and

(b) be refundable to the extent based on the refundable amount of fuel tax when paid by others.

This recommendation flows from Recommendation 30:2, and therefore we do not endorse it. This is not to imply that the present system of refunding should be changed: the law should remain as it is at present.

RECOMMENDATION 30:4

The licensing fees for all commercial vehicles owned by municipalities, school boards, local boards and commissions be set at the same levels as the fees for privately owned vehicles. 30:4

We endorse this recommendation. It is consistent with the earlier recommendations in the Smith Report that municipal and other governmental agencies should pay the same taxes as do private enterprises and we assume that

compensatory grants would be made by the Province to municipalities.

RECOMMENDATION 30:5

The fee for licensing trolley buses be raised from the present flat \$2 to at least the standard rates that apply to motor buses. 30:5

We endorse this recommendation for the same reasons given under Recommendation 30:4. Again we assume that compensatory grants would be made by the Province to municipalities.

RECOMMENDATION 30:6

The fees charged for operating licences under The Public Commercial Vehicles Act and The Public Vehicles Act be set at a level such that the revenue derived will approximate the costs incurred in administering these two Acts. 30:6

We endorse this recommendation with modification. There may be an element of monopoly profit if a limited number of licences are issued under the two acts. To be consistent with Recommendation 17:4 we think the Legislature should consider this an appropriate area for revenue. Secondly, there are indirect costs involved in the administration of the two acts which cannot be readily computed so fees in excess of direct costs are considered to be appropriate. The amended recommendation reads as follows.

The fees charged for operating licences under The Public Commercial Vehicles Act and The Public Vehicles Act be set at a level such that the

revenue derived will at least recover the costs incurred in administering these two Acts.

RECOMMENDATION 30:7

The fees for the various categories of garage licences be reduced to a level such that the revenue derived will approximate the cost of licensing. 30:7

We do not endorse this recommendation. Our conclusion is based on the reasoning given in Recommendation 30:6.

RECOMMENDATION 30:8

The transfer fee charged to purchasers of motor vehicles be reduced to a level such that the revenue derived will approximate the cost of registering the transfers. 30:8

We do not endorse this recommendation. The fee charged at present is reasonable and should not be reduced.

RECOMMENDATION 30:9

Toll charges for the use of the Burlington and the Garden City Skyways be eliminated. 30:9

We endorse this recommendation. With the exception of the two Skyways, Ontario is toll-free and is known to be so. We think Ontario should be completely toll-free.

RECOMMENDATION 30:10

The licence fee for passenger vehicles, dual-purpose vehicles 30:10 and trucks weighing less than 2½ tons gross weight be set at a flat rate of \$25, and the licence fee for trucks from 2½ to 3 tons gross weight be raised to \$30.

We endorse this recommendation. With respect to the proposed flat rate of \$25.00 for passenger vehicles, we are of the opinion that the present licence fee structure based on the number of cylinders in the vehicle's engine is not necessary in that the number of cylinders in the vehicle's engine generally bears a direct relation to the amount of gasoline consumed, and therefore to the amount of motive fuel tax paid. We see no justification in having separate licence fees of \$20.00 and \$25.00 for passenger vehicles. Insofar as heavier vehicles cause more wear to the roads we agree that they should pay an additional amount for a licence fee.

DISSENTING OPINIONS ON RECOMMENDATIONS IN CHAPTER 30

DISSENT 1

Messrs. Lawlor and Pilkey stated:

1. The Smith Committee, after exhaustive studies, concluded that highway users should pay only from 65% to 75% of road costs. Currently the Ontario Government is collecting over 100% of the amount it is spending through the Departments of Highways and Transport.

2. In the light of this fact, we recommend that the 1968 increases in the gasoline and motor fuel taxes and in motor vehicle licences be rescinded and that no further increases in these levies be considered until the ratio of

revenues to expenditures reaches the level recommended by the Smith Committee.

3. The revenue loss from these changes should be met by reliance on more progressive forms of provincial taxation.

CHAPTER 31

OTHER PROVINCIAL TAXES

1. Six miscellaneous taxes provided the subject matter for this chapter. These were The Tobacco Tax, The Hospitals Tax on entertainment, The Race Tracks Tax, The Securities Transfer Tax, The Land Transfer Tax and The Taxes on Insurance Premiums. While differing in structure, rate and purpose, each of these taxes is imposed on a particular transaction and to each the Smith Committee applied the same canons of taxation. Because they are quite different, we will deal with each tax separately.

2. The Smith Committee stated that for purposes of administrative efficiency, a tax-in-lieu of the Retail Sales Tax is levied on tobacco products at the wholesale level. While it is often argued that such a tax should be used as a tool of social policy to discourage the use of tobacco, the Smith Committee argued that direct control and regulation, not the taxation system, should be used for such purposes if the Legislature were to decide consumption should be discouraged.

3. There are several arguments in favour of this tax. It is clear, simple, certain and easy to administer. Perhaps most important, there is wide public acceptance that tobacco should be an object of taxation, and any reasonable increase in the tax rate is likely to yield more revenue to the Province.

4. The Hospitals Tax, which yielded \$6.8 million in 1966, is a levy made on expenditures for entertainment and amusements. Originally, the revenue raised was earmarked for hospital finance. Hospital needs have outpaced this source and proceeds are now deposited in the Consolidated Revenue Fund.

5. Neither the Smith Committee nor your Select Committee is able to find any justification for this special tax. The schedule of exemptions, which is at the discretion of the Minister and not contained in the act, is unfair in some cases.

6. The Race Tracks Tax, which imposes a levy of 7% on the pool of pari-mutuel betting, provides a substantial

Other Provincial Taxes

and growing revenue source. A further levy of one dollar per day of race meetings on every person owning or operating a race track is also imposed. The total yield was \$12.2 million in 1966 but the portion provided by the one dollar levy was miniscule.

7. The Race Tracks Tax is simple and certain and there appears to be broad agreement that gambling is a suitable object of taxation. We therefore agree with the Smith Committee that the tax on pari-mutuel betting is a suitable source of revenue.

8. The Smith Committee recommended further the abolition of the dollar-a-day levy against race meetings on the grounds that it is essentially a licence which is not based on cost-recovery, and that costs of regulation and licensing of racetracks is already provided for by fees levied against all tracks and track personnel by the Ontario Racing Commission. In addition to being redundant the tax raises an insignificant amount of revenue.

9. The Security Transfer Tax produced about \$4.2 million in revenue in 1966. It is a tax on the change of ownership of a security paid by the vendor or transferor. However, there are several types of security (eg. Federal, provincial and municipal bonds) and some methods of transfer that are exempted. In the Smith Committee's opinion there is no good reason for these exemptions. One regulation, for instance, sets out 34 circumstances in which transfers are not taxable because beneficial ownership is not considered to have changed.

10. The Smith Committee stated that this is a nuisance tax and that it has no relation to benefits received. The Smith Committee said it is not simple, clear or certain. The Smith Committee therefore recommended that the tax be eliminated. If services were brought into the Retail Sales Tax base, the commissions of brokers would be taxable. This proposal, it pointed out, should not be viewed as an alternative to The Security Transfer Tax. Your Committee believes the present tax should be retained as described by us under Recommendation 31:3.

11. Ontario is the only province with a Land Transfer Tax.

Other Provincial Taxes

It is a levy which must be paid before any transfer of land can be registered. There are no regulations but there are departmental rulings which lead to a degree of uncertainty and arbitrariness. The only appeal from the interpretation of these rulings is to the Minister. The Smith Committee argued that there is little justification for this tax. It provides no benefits not already paid by fees charged in land title and registry offices. The Smith Committee argued that clarity, simplicity and certainty are not outstanding features.

12. We agree with the Smith Committee that The Land Transfer Tax should be subjected to careful and skillful attention to remove uncertainties and inequities. Departmental rulings should be replaced by comprehensive regulations offering an effective opportunity of appeal to those subject to the tax. For reasons which we give below we reject the recommendation that The Land Transfer Tax be eliminated.

13. Tax revenues on insurance premiums provided for under The Corporations Tax Act, The Insurance Act and The Fire Marshals Act totalled \$19 million in 1966. Nominally the 2/3 of one per cent collected under The Fire Marshals Act is earmarked to finance the operations of the Fire Marshals Office, but in fact it is paid into the Consolidated Revenue Fund like most other taxes.

14. The justification for the premium taxes is certainty, simplicity and dependability. The Smith Committee showed that the yield and rate effect of a change to a Retail Sales Tax would produce results strikingly similar to those presently achieved. To abandon the present premium taxes would be to disrupt the workings of smooth-running taxes and to forgo the significant advantage of the co-operative audit among provinces. We therefore concur with the Smith Committee's assertion that the premium taxes should continue in their present form and that the rate should be kept at a level which would yield as much tax as would a Retail Sales Tax on the service portion of premiums.

15. We do not agree, however, with the Smith Committee's recommendation that the Fire Marshals Tax be eliminated, for reasons which are given under Recommendation 31:5.

Other Provincial Taxes
Recommendation 31:1 31:2 31:3

16. Here are the five specific recommendations the Smith Committee made with respect to these six sources of tax revenue followed by our comments.

RECOMMENDATION 31:1

*The Hospitals Tax Act be repealed and all expenditures on 31:1
amusements and entertainment be taxable under the retail
sales tax.*

Your Committee endorses this recommendation for reasons of equity and consistency. We have recommended previously that the existing 5% Retail Sales Tax be applicable to services and this makes appropriate the removal of the special tax status of amusements and entertainment. Despite the fact that The Hospital Tax rate is 10% rather than 5%, total revenue should not diminish as a result of this recommendation because many of the present exemptions would be cancelled.

RECOMMENDATION 31:2

*The tax, on a person holding a horse racing meeting, of \$1 31:2
for each day of racing, be abolished.*

The Smith Committee stated that the revenue raised by this tax is insignificant and no longer serves a useful purpose. We agree and we support the recommendation.

RECOMMENDATION 31:3

*The security transfer tax be abolished, and commissions 31:3
charged by security dealers and brokers for their services be
taxable under the retail sales tax; and for this purpose, where
no commission is charged by a security dealer or broker, a
reasonable commission be deemed to have been charged.*

We endorse this recommendation subject to implementation of similar taxes by the Provinces of Quebec and

British Columbia. To prevent loss of trading volume on the Toronto Stock Exchange would necessitate similar taxes applicable to other major trading markets. In the event that such an agreement cannot be reached with Quebec and British Columbia we reject this recommendation.

RECOMMENDATION 31:4

The land transfer tax be abolished and that commissions charged for services by real estate agents be made subject to the retail sales tax. 31:4

We reject the first part of the recommendation abolishing The Land Transfer Tax. Some tax should apply to all real estate transactions. The Smith Report argued that there would be no loss of revenue under this plan. We do not agree because by no means are all real estate transactions effected through brokers. The Retail Sales Tax on commissions has been dealt with under Recommendation 29:9. We consider real estate agents' services to be in this category.

RECOMMENDATION 31:5

The tax on fire insurance premiums imposed under The Fire Marshals Act be abolished. 31:5

The Smith Committee contended that if a sales tax is levied on services, a tax on insurance premiums could no longer be justified. Your Committee thinks that the object of this tax is to provide funds for the operation of the Fire Marshals Office which directly benefits insurers and insureds in the form of reduced risk. We reject this recommendation because The Fire Marshals Tax is an equitable and efficient tax levy.

CHAPTER 32

REVENUE FROM MINES

1. The recommendations in this chapter for the taxation of the mining industry were predicated on the concept that the Province has the right to secure for itself a reasonable share of the income generated by the exploitation of its mineral resources. In turn, the approach proposed by the Smith Committee to secure this share was predicated largely on constitutional and economic considerations.

2. At the present time in Ontario most mineral rights are privately owned, and the Province has not the right to any royalty on mineral production. In these circumstances, the Province is constitutionally unable to impose a royalty on mineral production from privately-owned land because such an impost would be held by the courts to be a form of indirect taxation. While a constitutionally valid royalty system might be introduced, the Smith Committee noted that this would require a fundamental alteration to the whole basis of land tenure for the mining industry and would be exorbitantly expensive. Fortunately, there are alternative methods for securing to the Province a share of the "economic rent" arising from the use of its resources, and of these, a profits tax was held by the Smith Committee to be economically more desirable than a royalty system.

3. Commending the use of a profits tax for the mining industry is the fact that such a tax was in effect when the Province parted with the ownership of mining lands, and that the purchasers of such land undoubtedly assumed that some such tax would continue to prevail after the purchase. In addition, the Smith Committee thought that a profits tax is more likely to be related to the value of the lands than is a royalty, whether based on price or production, determined in advance of the development of the mine and taking no cognizance of differences in the cost of production. Finally, the Smith Committee observed that the profits tax is well suited to an industry characterized by a high degree of risk, because it does not penalize efforts which fail to yield profit.

4. While the Smith Committee concluded that these constitutional and economic factors warrant the use of the profits base for the taxation of the mining industry, it considered the present tax structure to be seriously defective. In the first place, because of the severe

Revenue From Mines

limitations on deductions, The Mining Tax is not a tax on actual profits. Secondly, and more importantly, since The Mining Tax, in addition to providing the Province with a return for the use of resources, receives from profitable mines the revenue needed by the Province to make payments to Mining Municipalities, the Smith Committee held that the existing tax fails to provide sufficient revenue for these two purposes. In consequence, among the objectives of the revised structure is the yielding of a greater revenue.

5. It may be noted that the Smith Committee did not believe that municipal services should be financed by a tax on profits, but until various assessment problems are resolved, and the fiscal structure of Ontario municipalities rationalized to permit dormitory municipalities to share in taxes levied on mining property located in another, it was decided that the payments to the Mining Municipalities should continue to be financed by a profits tax. The implied limitation to a burden falling only on profitable companies was accepted, subject to the constraint that there should be no initial exemption from the proposed Mines Services Tax for financing payments to Mining Municipalities: all profitable mines should contribute.

6. For the purpose of securing for the Province a reasonable share of the economic rent from the use of its resources, the Smith Committee proposed a Mines Profits Tax which would operate as an excess profits tax. The philosophy underlying this tax is simply that the acquisition terms of mineral rights permit the earning of economic rents or higher-than-average rates of return. By taxing the "excessive" part of the rate of return, the Province would thereby capture some of the economic rent attributable to the exploitation of its resources.

7. It was the Smith Committee's view that both of the proposed taxes, the Mines Services Tax and the Mines Profits Tax, should be levied at flat rates. This would correct the deficiency of the existing system in which rates are progressive with respect to the dollar amount of profits, but unrelated to the concept which really matters: the rate of return upon investment. The proposed elimination of special processing allowances would correct another deficiency of the existing system, that of discrimination

between different sectors of the industry.

8. The Smith Committee applied its recommendations to the 1962 tax year and the new structure would have yielded approximately 50 per cent more revenue than the existing one. This, then, is the order of magnitude of the increase in yield which was considered to be appropriate. It was held that an increase of this order is compatible with the maintenance of the competitive position of the industry, while yielding the Province a more reasonable return for the use of its mineral resources.

9. Your Committee has studied with care the many briefs which were submitted to it, and has also heard verbal submissions in Port Arthur, Fort William, Sault Ste. Marie, Timmins, Sudbury, Peterborough, London, Hamilton and Toronto relating to the 18 recommendations on The Mining Tax and the 5 recommendations on Mining Revenue Payments to Mining Municipalities.

10. After careful consideration your Committee has decided to reject the recommended restructuring of mining taxes described above because our calculations and deliberations convinced us that such changes would produce two unexpected and adverse results. They would decrease very substantially the Mining Revenue Payments to Mining Municipalities and would increase inequitably the tax on certain producers. Instead we propose the continuation of the present Mining Tax, taxing profits from mining but not from processing, at whatever flat rate is considered appropriate by the Province, the retention of The Mining Land Tax, and a completely new approach to municipal property taxes in those municipalities qualifying for a new classification, that is Mining-Industrial Municipalities. We expect the combination of our recommendations to produce the same increase in total revenues envisaged by the Smith Committee (about 50%). We expect there will be substantial increases in property and business tax revenues paid directly to the Mining-Industrial Municipalities. We suggest generous increases in grants to the Mining Municipalities.

11. This new system is described in the recommendations that follow and in Recommendation 12:21 that precedes.

RECOMMENDATION 32:1

- (a) *The profits tax under The Mining Tax Act be revised so as to impose on the profits of a mine derived from both mining and processing operations a two-stage tax consisting of* 32:1
- (i) *a flat-rate Mines Services Tax from which payments to designated mining municipalities and other public service expenditures related to mining would be financed, and*
 - (ii) *a flat-rate Mines Profits Tax which would yield an appropriate return for the use of Ontario's mining resources.*
- (b) *The profits subject to the Mines Profits Tax be the profits subject to the Mines Services Tax less the Mines Services Tax and the deductions hereinafter recommended by us.*

1. We reject all of this recommendation and the system of taxation that it formulates. We recommend that the present Mining Tax be retained, subject to a number of changes in the base which are discussed in subsequent recommendations.

2. We suggest the continuation of the present provision permitting Mining Municipalities to receive Mining Revenue Payments on condition that they give up the right to assess and tax mine processing facilities. Should our recommendation for equalization grants (Recommendation 12:21) be enacted, these payments should replace the present Mining Revenue Payments. In any event it is our enthusiastic recommendation that such payments be increased dramatically in the interest of those people in the pioneer part of Ontario and to better develop the Province's northern resources for the benefit of all of our people.

3. We suggest that a new category of municipality be established, differing for taxation purposes from the conventional industrial municipalities (such as Hamilton or Sault Ste. Marie) which have the power to tax processing structures. We refer to these new municipalities as Mining-Industrial Municipalities.

4. The new category of Mining Industrial-Municipality

would be permitted to assess and tax the processing facilities of the mining industry within its taxation jurisdiction on the same basis as industrial municipalities. If the Mining Revenue Payments were continued the municipality would receive such payments on behalf of resident miners, but excluding employees in the processing plants. Should our proposal for equalization grants be accepted, these Mining Industrial Municipalities would be eligible for such grants, if they qualify. Qualification as a Mining-Industrial Municipality would be acquired by means of application from the municipality concerned, on approval of the Minister, and on condition that the increase in property and business tax revenues be regionalized to benefit the municipalities in the area.

5. We recommend further that all mining operations including gravel pits and stone quarries throughout Ontario be required to pay The Mining Tax, there being no meaningful difference between a gold mine near Timmins and a gravel pit near Toronto so far as the Province's claim to a share of the revenue is concerned. Presently exempted mining operations yielded a total product value of \$191 million in 1967 which was almost exactly 10% of the Province's total mineral output.

6. It will be noted that the Mining Revenue Payments to Mining Municipalities and to the Mining Industrial Municipalities would be supplanted by equalization grants based on fiscal impairment if our Recommendation 12:21 were enacted.

RECOMMENDATION 32:2

*No basic exemption be allowed with respect to the profits 32:2
subject to either the proposed Mines Services Tax or the
Mines Profits Tax.*

We reject this recommendation. For administrative purposes we recommend continuing the exemption presently contained in The Mining Tax Act for any mine whose profit is less than \$10,000 in any year.

RECOMMENDATION 32:3

Payments to gold mines under the Emergency Gold Mining Assistance Act be excluded from the computation of profits subject to the proposed Mines Profits Tax. 32:3

We accept this recommendation. We agree with the Smith Committee that to tax this Federal subsidy diminishes its value and to some extent frustrates its purposes. The recommendation should be reworded by deleting the last four words of the recommendation and substituting "existing Mining Tax" so that the recommendation reads as follows.

Payments to gold mines under the Emergency Gold Mining Assistance Act be excluded from the computation of profits subject to the existing Mining Tax.

RECOMMENDATION 32:4

The provision permitting the Minister of Mines to remit the mining tax on iron ore smelted in Canada be repealed. 32:4

We accept this recommendation but we think that its repeal should be staged over a five-year period and we reword the recommendation as follows.

The provision permitting the Minister of Mines to remit The Mining Tax on iron ore smelted in Canada be repealed in five annual stages of 20%.

RECOMMENDATION 32:5

(a) The base for computing the investment allowance, deductible from profits subject to the proposed Mines Profits Tax, 32:5

- (i) *include the gross investment of the mine operator at the end of the taxation year in all assets acquired for the purpose of the mining and processing operations, as well as the unamortized portion of exploration and development expenditures, and*
- (ii) *exclude the investment in mining lands or any interest in mining lands.*
- (b) *For the purpose of computing the allowance, the investment of the mine operator in unamortized exploration and development expenditures and in depreciable property be the cost thereof less amounts deducted, deductible or deemed to have been deducted by way of amortization or depreciation in the taxation year and in prior taxation years.*

Having rejected the concept of a Mines Services Tax and a Mines Profits Tax in favour of a continuation of the present Mining Tax on profits from mining, but in a modified form, we reject this recommendation as unnecessary.

RECOMMENDATION 32:6

So long as Ontario continues to exempt processing profits from mining tax, 32:6

- (a) *the general processing allowance be determined in accordance with provisions in The Mining Tax Act or Regulations thereunder, and that the formula be revised so as to compute the allowance on the written-down value rather than the original cost of assets used for processing, without any minimum or maximum limitation of the allowance based on combined mining and processing profits, and*
- (b) *the special processing allowance to nickel mines be abolished.*

1. We do not agree with the extension of The Mining Tax to include processing profits so we delete the first two lines of this recommendation. We agree with the balance of the recommendation which provides that the general processing allowance be computed on the written-down value of the assets rather than their original cost, that the present

minimum and maximum limitations of the allowance be discontinued and that the special processing allowance to nickel mines be abolished.

2. The Smith Committee indicated that they would favour a greater processing allowance than the present 8% if the allowance were to be based on the written-down value of processing assets rather than on the original cost of the assets. The Smith Committee suggested a 12% factor although it made no specific recommendation in this regard. Your Committee agrees the rate should be increased from its present level provided it is to be applied to the written-down value of the assets.

3. We reword the recommendation as follows.

The general processing allowance be determined in accordance with provisions in The Mining Tax Act or Regulations thereunder, and that the formula be revised so as to compute the allowance on the written-down value rather than the original cost of assets used for processing, without any minimum or maximum limitation of the allowance based on combined mining and processing profits, and the special processing allowance to nickel mines be abolished.

RECOMMENDATION 32:7

The profits subject to the proposed Mines Services and Mines Profits Taxes be reduced by depreciation allowances on depreciable assets employed in mining and processing at the rates now set out in the Act, provided that where it can be demonstrated that the life of the mine is less than 6½ years, the Lieutenant Governor in Council may, upon the recommendation of the Minister of Mines, allow a greater rate based upon the expected life of the mine. 32:7

Your Committee agrees with the philosophy behind this recommendation which proposed a continuation of the present depreciation allowances of no less than 5% and no more than 15% of the cost of the assets. Your Committee further agrees that provision should be made to accelerate these

allowances when it can be clearly demonstrated that the potential life of a mine is less than 6-2/3 years. Having rejected the proposed Mines Services Tax and Mines Profits Tax we reword the recommendation to read as follows.

Where it can be demonstrated that the life of the mine is less than 6-2/3 years, the Lieutenant Governor in Council may, upon the recommendation of the Minister of Mines, allow a greater rate of depreciation than presently provided in the act, based upon the expected life of the mine.

RECOMMENDATION 32:8

All expenses allowable for income tax purposes, with the exception of interest and financing costs, royalties and rentals in respect of mining lands or rights other than those payable to the Crown, municipal property taxes and allowances for depletion of mine, be allowable in computing profits of a corporation subject to the proposed Mines Services and Mines Profits Taxes, in whole if the corporation had no other business activity or source of income, and to the extent reasonably apportionable to the business of mining and processing if it did have another business activity or source of income. 32:8

Your Committee is in agreement with this recommendation except that having previously recommended a substantially greater reliance by Mining-Industrial Municipalities on real property and business taxation, we amend the recommendation to read as follows.

All expenses allowable for income tax purposes, with the exception of interest and financing costs, royalties and rentals in respect of mining lands or rights other than those payable to the Crown and allowances for depletion of a mine, be allowable in computing profits of a corporation subject to the existing Mining Tax, in whole if the corporation had no other business activity or source of income, and to the extent reasonably apportionable to the business of mining if it

did have another business activity or source of income.

RECOMMENDATION 32:9

The profit subject to the proposed Mines Profits Tax be reduced by the amount of taxes paid by the mine operator to all municipalities and school boards on non-exempt property used directly or indirectly for the purposes of deriving income from mining or processing. 32:9

Having deleted the reference to municipality property taxes in Recommendation 32:8, such expenses would be totally allowable and Recommendation 32:9 becomes unnecessary.

RECOMMENDATION 32:10

- (a) *The profits subject to the proposed Mines Profits Tax be mandatorily reduced by the amount of expenditure on exploration in Ontario incurred in the year, and incurred in previous years but not deductible in such years, but that such deduction be limited to the amount of profits otherwise subject to the tax;* 32:10
- (b) *the profits subject to both the proposed Mines Services Tax and the proposed Mines Profits Tax be reduced by an annual allowance of 10 per cent of expenditures on mine development in Ontario, which, at the option of the mine operator, may be increased to a rate not exceeding 20 per cent, provided that where it can be demonstrated that the life of a mine is less than five years, the Lieutenant Governor in Council may upon the recommendation of the Minister of Mines allow a greater rate based upon the expected life of the mine; and*
- (c) *the above allowances be deductible from the combined profits of all mines operated by the taxpayer in Ontario, but that the allowance for mine development expenditures not commence until the year that the mine for which the expenditures are incurred comes into production in reasonable commercial quantities.*

Your Committee agrees that the present anomaly should be eliminated which denies a deduction for pre-production expenses to a company developing its first mine. At the present time a deduction of such expenses is allowed to a company operating another mine in Ontario. In addition, your Committee agrees that the annual deduction should be mandatory to the extent of profits and not permissive as is presently the case. Your Committee does not agree that development expenditures should be segregated from exploration expenditures and their allowances deferred until such time as the mine comes into production in reasonable commercial quantities. We are concerned in part because of the position of a mine on which development expenditures might be incurred but which never comes into production in reasonable commercial quantities. We are also concerned with the practicality of attempting to draw a distinction between exploration and development expenses. In this connection, we think The Mining Tax Act should combine such expenditures in the same way as they are combined for deduction under the Federal Income Tax Act and The Ontario Corporations Tax Act. Consequently, we reject paragraphs (b) and (c) of Recommendation 32:10 and modify paragraph (a) to include development expenses and to make it pertain to the existing Mining Tax Act. The revised recommendation reads as follows.

The profits subject to the existing Mining Tax be mandatorily reduced by the amount of expenditure on exploration and development in Ontario incurred in the year, and incurred in previous years but which were not deductible in such years, but that such deduction be limited to the amount of profits otherwise subject to the tax.

RECOMMENDATION 32:11

For the purpose of computing the deductions from profits 32:11 for exploration and development, and the investment allowance, a mine operator who has incurred exploration expenditures and expenditures for the development of a mine that had not come into production in reasonable commercial quantities at the effective date of the revised system of

taxation which we recommend, or that had come into production in the four-year period prior to the effective date, be deemed to have been allowed in respect of such expenditures in the period prior to the effective date of the new system the greater of

- (a) the amounts actually deducted in the computation of his mining tax under the old system, or*
- (b) 20 per cent for the year that the mine came into production and 20 per cent for each year thereafter prior to the effective date of the new system.*

This recommendation is a transition provision for the deduction of exploration and development expenses incurred prior to the effective date of the new system. Your Committee thinks that only such exploration and development expenses as are deductible under the present system, but which have not been deducted, should be allowed for carry-forward and deduction under the new system. Consequently, we would reword the recommendation as follows.

For the purpose of computing the deduction from profits for exploration and development a mine operator who has incurred exploration expenditures and expenditures for the development of a mine, prior to the effective date of the new system, be permitted to carry forward only those expenditures which would qualify for deduction under the present system but which have not, as yet, been deducted.

RECOMMENDATION 32:12

The profits subject to the proposed Mines Profits Tax be 32:12 reduced by losses from mining and processing incurred in the five preceding and the two succeeding taxation years, to the extent that profits of any preceding taxation year have not already been reduced by such losses, but that such deduction be limited to losses, excluding an investment allowance, incurred in the fiscal year that the proposed system becomes effective and in subsequent years.

Your Committee agrees with the proposal to permit a carry-over of losses in determining taxable mining profits, and agrees that no losses incurred in years prior to the effective date of the new system should be allowed. This is consistent with our revised Recommendation 32:11 above. Because of changes made in preceding recommendations it is necessary to modify this recommendation to read as follows.

The profits subject to the existing Mining Tax be reduced by losses from mining incurred in the five preceding and two succeeding taxation years, to the extent that profits of any preceding taxation year have not already been reduced by such losses, but that such deduction be limited to losses incurred in the fiscal year when the proposed system becomes effective and in subsequent years.

RECOMMENDATION 32:13

The proposed Mines Services Tax be established at the flat 32:13 rate required to yield an amount approximately equivalent to the aggregate of the payments to be made by the Province to designated mining municipalities, and the proposed Mines Profits Tax be established initially at the rate of 12 per cent.

The Smith Committee proposed that the rate of tax for the Mines Services Tax be set to yield an amount approximately equal to the aggregate of the payments to be

made by the Province to designated Mining Municipalities and that the rate of the proposed Mines Profits Tax be set initially at a flat rate of 12%. The effect of these two proposals would be to increase Mining Tax revenues by approximately 50%. As indicated previously, your Committee has rejected the proposed Mines Services Tax in favour of greatly expanded use of municipal property and business taxes. Your Committee agrees with the proposal of the Smith Committee that The Mining Tax should be set at a flat rate. We recommend that the rate be set to yield an amount at least equal to the present Mining Tax revenues. Consequently, we change the recommendation to read as follows.

The existing variable rates of Mining Tax be changed to a flat rate which will yield an amount at least equal to the present mining tax revenues.

RECOMMENDATION 32:14

*The administration of The Mining Tax Act be transferred 32:14
from the Department of Mines to the proposed Department
of Revenue.*

We concur with this recommendation which we recommend be made applicable to all other natural resource revenues.

RECOMMENDATION 32:15

*Pending any revision of the structures of Ontario mining tax 32:15
and federal income tax, Ontario press the federal govern-
ment for a change in Regulation 701 under the Income Tax
Act so that mining taxes, except to the extent that they are
imposed on processing profits or other income which is not
derived from mining, will be fully deductible from income
for federal income tax purposes.*

We have recommended a continuation of The Mining Tax now in effect although in modified form. We think that the Province should ensure that mining taxes levied on Ontario mining companies are fully deductible in determining income for income tax purposes. Consequently, we reword this recommendation to the following.

Ontario urge the Federal government to change Regulation 701 of the Income Tax Act to ensure that mining taxes will be fully deductible from income for Federal Income Tax purposes.

RECOMMENDATION 32:16

Upon the adoption of the revised system of taxing mining profits recommended by us, Ontario press the federal government to make such changes in Regulation 701 under the Income Tax Act that all of the mining tax payable by Ontario mines will be deductible for income tax purposes.

We reject this recommendation as being no longer necessary in the light of changes previously proposed.

RECOMMENDATION 32:17

The rate of acreage tax on mining lands be set and maintained at such level as is needed to perform the function of discouraging the holding of mining lands without the performance of adequate exploration, development or mining work.

We note that as of January 1, 1969, the rate of acreage tax is increased from 10 cents to 50 cents per acre so that this recommendation has been enacted by the Legislature.

RECOMMENDATION 32:18

Rentals on leased mining lands and mining rights be set 32:18 on the basis and at the rates recommended by the Select Committee on Mining of the Ontario Legislature or at such higher level as is needed to perform the function of discouraging the holding of mining lands and rights without the performance of adequate exploration, development or mining work.

We note that the existing rental is increased from 25 cents to \$1.00 per acre as of January 1, 1969, so this recommendation has been acted on also by the Legislature.

DISSENTING OPINIONS ON RECOMMENDATIONS IN CHAPTER 32

DISSENT 1:

Messrs. Pilkey and Lawlor stated:

1. We note that the Smith Committee found that

"...the level of mining taxation in Ontario, after deducting the portion paid to mining municipalities, is much lower than in all but one of the other provinces with significant amounts of metal production, namely Quebec, British Columbia and Manitoba." (p.314, vol. III)

2. In view of this finding, we feel that the Select Committee is betraying the interests of the people of Ontario by refusing to recommend a rate of profits tax at least equivalent to that now in effect in British Columbia (15% on income over \$10,000) and Quebec (9% to 15% on income over \$50,000). We believe that it should have called for an increase in profits tax revenue from this billion dollar industry which is yielding only about \$15 million (or 1½%) in profits tax to the Province in the current year.

3. We therefore recommend that the Mines Profits Tax be set at a level which will yield a rate of return from the industry at least equal to the maximum obtained from the combined profits and municipal taxes imposed in other provinces with substantial mining operations.

CHAPTER 33

REVENUE FROM FOREST RESOURCES

1. Ontario derives revenue from its forest resources under The Crown Timber Act, The Logging Tax Act, The Forestry Act, The Provincial Land Tax Act, and The Assessment Act, but the concern of the Smith Committee was focussed on the imposts levied under the first two of these statutes. Of these, the charges levied under The Crown Timber Act are based on the holding of timber limits and the removal of timber therefrom. The Logging Tax Act imposes a levy on income derived from woods operations or income deemed to have been derived from logging in the case of integrated operations.

2. It is clear from this chapter of the Smith Committee Report that the amount of revenue currently derived from the utilization of the Province's forest resources was thought to be appropriate and the Smith Committee's concern was with the method of raising this revenue together with its implications for the efficiency of forestry operations. In particular, it thought that the charges levied under The Crown Timber Act involved an excessive reliance on severance payments (over 90 per cent in recent years), and an insufficient emphasis on rentals. Such a division tends to encourage the holding of over-mature stands and of excessively large tracts of timber. The Smith Committee also held that the reliance on severance charges results in higher costs of revenue collection.

3. To counteract these undesirable effects, the Smith Committee advocated a tax system through which the burden was related primarily to the potential productivity of the land whether the timber was fully harvested or not. This would force operators holding excessive rights to release some portion permitting the Province to offer these forests to other enterprises for better use. Accordingly, the Smith Committee recommended a number of changes.

RECOMMENDATION 33:1

The present ground rent and fire-protection charges on Crown lands be abolished and replaced by tenure charges fixed at rates per foot of allowable cut based on sound principles and on further study by the Department of Lands and Forests. 33:1

Recommendation 33:1

1. Your Committee believes this recommendation should be rejected. Our principal reason is found in our conviction that the competitiveness of our forest industries is dependent on optimum utilization of productive facilities large enough to achieve all reasonable economies of scale. In our opinion, the necessary investment will be forthcoming only if operators are given access to timber stands adequate to sustain high capacity operation of their facilities. While they are achieving capacity output, and their rate of progress toward it will be largely conditioned by market forces, the adoption of Recommendation 33:1 would render extremely expensive the holding of the stands which would ultimately be required for their optimum-size units of production. We would be less concerned about the adoption of this recommendation had the industry progressed to the point where the actual annual cut and the allowable cut were more nearly in balance than is the case at the present time. We therefore recommend that the matter be reconsidered from time to time in the future with the first re-examination being made some years hence.

2. Another factor influencing our decision to recommend the rejection of Recommendation 33:1 was the estimated impact of its implementation on the smaller forest operators. At the present time, the pulp mills obtain approximately one-third of their raw material from private licensees. The enactment of Recommendation 33:1 would cause the pulp mills to rely more heavily on their own holdings than at the present time, and this would work to the disadvantage of more than two thousand smaller operators who are dependant on this source of cash income.

3. We were also concerned about the quality and location of any land that the implementation of Recommendation 33:1 might cause to be released. It is probable that land offered for release would be of low quality and uneconomic location perhaps highly dispersed and incapable of being consolidated into an economically viable holding.

4. While its terms of reference limited the Smith Committee to a consideration of the provincial revenue system, your Committee thinks that inefficiencies existing in our forestry industries are more likely to be eliminated by a combination of revenue and expenditure reforms. We conclude that increased expenditure for

northern roads would facilitate the more complete utilization of forest resources as would increased research directed at improving the quality and variety of end-uses for forest products. The latter of these could be important when directed to the products of the smaller operators.

5. In the opinion of your Committee, the implementation of many of the recommendations contained in the Report of the Forestry Study Unit (known as the Brodie Report) would do much to enhance the efficiency and productivity of our forest industries. We urge that the recommendations contained in this Report be thoroughly studied by the appropriate Standing Committee of the Legislature with a view to early implementation as an alternative to the first two recommendations in this chapter.

6. We note with interest and approval the increases in ground rent and fire protection charges recently enacted by the Legislature. An adjustment in rates at intervals is preferable to a change in taxation structure in the medium-term future.

RECOMMENDATION 33:2

The Department of Lands and Forests make appropriate adjustments in the rates of Crown dues so that combined tenure charges and Crown dues per cubic foot cut by a licensee, whose actual cut is equal to his allowable cut, will approximate the amount of such combined charges under present rates. 33:2

For reasons given in Recommendation 33:1 we recommend the rejection of Recommendation 33:2. We do agree, however, that the total burden of the charges levied under The Crown Timber Act should be left at their existing level. The testimony of expert witnesses appearing before us suggested that the revenue obtained by the Province per cunit (one hundred cubic feet) of wood was approximately equal to that obtained in British Columbia. In these circumstances, we do not think any further changes should be made until it is possible to assess the results of the recent increased imposts on Ontario's competitive position.

RECOMMENDATION 33:3

With respect to privately owned forest land, fire-protection charges be reviewed and set on a cost-recovery basis. 33:3

We recommend that Recommendation 33:3 be accepted. We see no reasonable objection to charging amounts adequate to cover the costs of this service. We therefore subscribe to the recommendation that fire-protection charges for privately-owned land be established on a cost-recovery basis.

RECOMMENDATION 33:4

In the negotiation of general federal-provincial fiscal agreements, Ontario offer to repeal The Logging Tax Act in return for an additional share of income taxes imposed upon taxpayers engaged in logging that approximates the present net return to Ontario from the existing logging tax arrangement, and, pending such repeal, The Logging Tax Act be amended by the enactment of loss-carry-over provisions similar to those included in the federal Income Tax Act and The Corporations Tax Act of Ontario. 33:4

Because our major premise for the taxation of the forest industries is that the existing tax structure should be maintained, we cannot recommend the acceptance of the first part of Recommendation 33:4. We think, however, that the latter part of the recommendation, starting with the words "The Logging Tax Act be amended", and reading to the end of the recommendation, should be accepted. While Logging Taxes are fully deductible from the Federal and provincial corporate income taxes otherwise payable, the absence of loss-carry-over provisions results in the Logging Tax being a direct burden on taxpayers for those years in which income for corporate tax purposes is either appreciably reduced or eliminated by deductions because of a loss-carry-over. This is particularly burdensome on the smaller operators whose income tends to be less stable than that of the larger companies. We are also concerned by the

Recommendation 33:4
Logging Municipalities

fact that operators located in the Province of Quebec enjoy an advantage now over their competitors in Ontario because they are permitted a Provincial abatement to the extent that they cannot obtain a credit at the Federal level. We therefore amended the recommendation to read as follows.

The Logging Tax Act be amended by the enactment of loss-carry-over provisions similar to those included in the Federal Income Tax Act and The Corporations Tax Act of Ontario.

LOGGING MUNICIPALITIES

1. There are obvious similarities between the mining and the logging industries so far as resource taxes imposed by the Province are concerned. Your Committee has concluded that in some instances logging communities face problems which are very similar in nature to the problems found in mining communities. There are throughout the north a number of smaller communities which serve the logging industry as dormitories. The logging industry is not exempt from the payment of local taxes but industrial plants that serve this industry are often located outside the boundaries of the communities where their employees live. While this situation is not as prevalent as in the case of the mining industry, it is nevertheless one that merits consideration. Your Committee therefore recommends as follows.

- (a) A higher degree of planning should be instituted by the Province to assist and encourage the orderly phasing out of those small hamlets whose existence is no longer economically and sociologically viable after the industry has terminated its logging or saw-milling program.
- (b) The Province should make greater Equalization Grants to logging municipalities as the second stage of that program.
- (c) We recommend that the forest management techniques of the Brodie Report be employed as deliberate departmental policy so that the

management of forest resources is used to assure raw materials in sufficient quantities to sustain economically viable lumber communities.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN CHAPTER 33

DISSENT 1:

Messrs. Lawlor and Pilkey stated:

1. In the current fiscal year Budget figures and estimates indicate that government outlays for forest protection, supervision and regeneration will exceed anticipated revenues by at least \$10 million.
2. In view of the above and in accordance with the principle adopted by both the Smith Committee and the Select Committee that taxes ought to at least cover the cost of services provided where these can be identified, we find it inconsistent for both Committees to conclude that the total levies on the forest industry should not be increased at this time.
3. We recognize that there may be market and development problems which preclude a greater contribution from the industry at present, but we feel that the Select Committee did not have sufficient information to make a judgment in this matter.
4. We therefore recommend that a task force or a new Select Committee be appointed immediately to investigate whether the industry can make a contribution to provincial revenue which will at least equal the government outlays for forestry. This same body could also study whether more weight should be put on tenure charges as opposed to severance levies in order to stimulate fuller utilization of our forest resources.

CHAPTER 34

REVENUE FROM OTHER NATURAL RESOURCES

1. This chapter of the Report of the Ontario Committee on Taxation dealt with provincial revenues from the taxation of natural resources other than mines and forests. Specifically, it considered four minor sources of revenue: natural gas, oil, water power, and hunters, trappers and fishermen.

2. Of the four recommendations contained in this chapter, we have rejected three, while the fourth has been implemented already by the Legislature. The three rejected recommendations deal directly with taxes on producers of natural gas and oil. We deal with these separately as follows.

3. In addition to specific recommendations regarding oil and natural gas, the Smith Report is concerned with revenues from water power rental agreements between the Province, and public and private users of water power. In considering ways in which the revenue from the producers of water power could be increased, the Smith Committee considered and rejected two alternative methods for the valuation of water in power production from which criteria for rental rates could be established. The first of the two methods, referred to by the Smith Committee as the "opportunity cost" method was found to be unworkable because the use of water for hydro power does not necessarily detract from, and may even add to, its usefulness for other purposes. The second method measured the value of water in power production by comparing the costs of power generated by alternative methods. This indicated that the increase in rentals appropriate to equate hydro-electric power costs with thermal-electric costs would be substantial, adding significantly to Ontario's primary power costs. A more appropriate comparison would be with the combined alternatives of low-cost imported power and high cost thermal-electric power. Such a comparison indicated that water rental fees would have to be lowered to equate Hydro costs with this alternative. Thus this basis for calculating the appropriate value cannot be used to justify an increase in rentals.

4. Moreover, even if increased rentals could be justified, the Smith Committee feared that the increased costs would significantly affect industrial costs and have an undesirable effect on industries located in Ontario. Thus,

Revenue From Other Natural Resources
Recommendation 34:1

while it made no specific recommendations concerning revenue from water power, the Smith Committee suggested that rentals not be increased because of the existence of cheap power in Quebec and the undesirability of raising industrial costs. It suggested no appropriate modification of the water power rental rates but your Committee recommends that this natural resource source of revenue be studied by the Department of Treasury and Economics.

5. The following paragraphs deal with the four specific recommendations contained in Chapter 34.

RECOMMENDATION 34:1

In accordance with the general principles that we have developed for the taxation of mines, the tax on production of natural gas be changed to a uniform flat-rate profits-based tax, equivalent to 12 per cent of the economic rent accruing to the producer. 34:1

1. This recommendation is predicated on the belief that there should be paid to the public treasury some of the economic rent (excess profit) accruing to the developer of a natural resource. We have already considered this principle in the chapter dealing with mining, where we rejected as unworkable a profits-tax based on economic rents earned by the producer. By analogy from mines, we cannot agree that this approach could be any more workable for natural gas. The Smith Report itself pointed out: "The work we have done and the operational data available to us have not been sufficient to enable us to propose any detailed structure of such a profits tax." Moreover, the revenue from this method, even if practical, could not help but be less than that under present arrangements which yield about \$370,000 annually. If we assume economic rents in the gas industry to be 50% of total gross production in the industry, which is unduly high, the revenue derivable under this plan at a 12% rate, given the 1965 wellhead value of \$4,820,740, would amount to less than \$300,000, representing a 25% decrease from present revenues. Revenues derivable from any amount that reasonably approaches the value of economic

rent would be substantially lower than this. Furthermore, for administrative reasons, large numbers of small producers would likely be exempt, which would eliminate approximately 114 of the present 130 operators from the tax base, further reducing the tax yield. The Smith Report further argued that the present plan may be ultra vires the Province because it might be ruled an indirect tax.

2. Thus, on the grounds that the principle of a tax on economic rent in terms of gas and oil, while theoretically intriguing, is unworkable; that the fiscal effect is perverse; and that the possible unconstitutionality of the present arrangements has presented no barrier, we reject this recommendation in favour of retaining the present system.

RECOMMENDATION 34:2

The proposed profits-based tax on a producer of natural gas be reduced by an amount equivalent to 75 per cent of the rentals or royalties payable under leases from the Province of the lands from which the production is derived. 34:2

Because of the considerations under Recommendation 34:1, we reject this recommendation.

RECOMMENDATION 34:3

A tax be introduced on the profits derived from oil production on the same basis, at the same rate and with the same relief to operators on Crown lands as recommended for natural gas production. 34:3

Rejection of this recommendation follows by analogy with the considerations in Recommendations 34:1 and 34:2. The oil industry in Ontario is small, producing only 1½ million barrels in 1965, for a gross value of production of about \$3.7 million. Moreover, of the seventy producers,

Recommendation 34:3 34:4

whose annual output ranges from 30 to 500,000 barrels per annum, only nine produce in excess of 20,000 barrels. We reject the recommendation.

RECOMMENDATION 34:4

A review be made of the terms and rates of hunting and fishing licences. 34:4

The review recommended here has already been made and action taken by the Legislature.

CHAPTER 35

REVENUE FROM ALCOHOLIC BEVERAGES

1. This chapter is concerned with the fifth largest revenue source of the Province: revenue from the sale and control of alcoholic beverages. The Smith Committee admitted that its particular concern was with the revenue implications but did not ignore the fact that the question of control was inextricably linked to sales and pricing policies. Hence, present legislation is a manifestation of the control, as well as the revenue, policy of the government.

2. On the revenue side of the question, the Smith Committee's concern was with recommendations designed to make the pattern of revenue-raising more rational and equitable. To this end, seventeen recommendations were made concerning the three sources of revenue from alcohol, LCBO mark-ups, taxes and fees on the sales of Canadian beer and wine, license and related fees, and control.

3. In addition, the Smith Committee offered a justification for the sale of liquor by public rather than private enterprise. It pointed out that LCBO operations compared favourably with privately operated liquor outlets in the U.S. Its operating expenses have been about 50 per cent less and the gross profit rate about 15 per cent more. It has been argued that the higher cost and lower profit margins on private outlets are compensated for by greater public convenience arising from a larger number of outlets. The Smith Committee doubted that the addition to public convenience was more than marginal if an adequate number of LCBO and Brewers' Retail stores are established and maintained. Moreover, a multiplicity of private outlets might complicate the control aspect of the Province's responsibility. Of importance also was the finding that a private retailing system yielded a lower return to the public treasury. The Smith Committee concluded that "on balance...we have no doubt as to the superiority of public over private liquor outlets". It recommended, and we agree, that any changes in retailing alcoholic beverages in Ontario should be modifications of existing methods

Revenue From Alcoholic Beverages

rather than a completely new system.

4. Because the Province generates large revenues from the sale of liquor, the principle of neutrality is violated since the overpricing of intoxicants may have strong effects on the allocation of resources.

5. The Smith Committee argued persuasively that such deviations are justified on the basis of two considerations: social cost and social policy. The direct and indirect consequences of abusive consumption of intoxicants impose high social costs on the Province. Such consequences as alcoholism, crime, traffic accidents and fatalities, absenteeism, etc. require increased expenditures on welfare, police, hospitals, traffic control, and other costly government undertakings. The Smith Committee did not feel that pricing alone is an adequate control. It recommended further research on the relationship between social cost and pricing policy.

6. Social costs alone cannot justify the derivation of higher revenues from liquor. The private cost of the abusive use of liquor is likely higher than the social cost. The Smith Committee did recognize a widespread consensus that the availability of intoxicants, together with attendant social costs, justified the extraction of substantial provincial revenue. While it cannot justify an arbitrary pattern of revenue-raising, social policy based on broad popular consensus may override in a democracy the considerations of neutrality and equity.

7. Your Committee is in general accord with the principles underlying the rationalization of revenue-raising with respect to alcohol suggested by the Smith Committee. Moreover, we are in accord with the considerations which have been offered in justification of deriving substantial revenue from the sale and control of alcoholic beverages.

Revenue From Alcoholic Beverages
Recommendation 35:1 35:2

8. Below, we set forth the seventeen specific recommendations made by the Smith Committee in this regard, each of which is followed by our comments.

RECOMMENDATION 35:1

The Liquor Control Board of Ontario be instructed to bring its mark-up on so-called "low-priced" Canadian spirits into line with the mark-ups that it applies to other Canadian spirits. 35:1

We agree with the Smith Committee that there is no longer a reason for the variation in markups on low-versus medium- or high-priced spirits. For the sake of uniform and consistent markup policy, we therefore endorse this recommendation.

RECOMMENDATION 35:2

The Liquor Control Board of Ontario apply the same mark-up to the cost of an imported spirit, wine, or malt beverage as is used for the corresponding class of domestic product. 35:2

We approve of this recommendation because a majority of your Committee is opposed to a form of provincial tariff to provide provincial protectionism through the manipulation of the revenue system of the Liquor Control Board of Ontario. We therefore approve this recommendation but amend it so that the change would be introduced gradually over a period of five years. Our amendment reads as follows.

Over a period of five years the Liquor Control Board adjust the markup to the cost of an imported spirit, wine, or malt beverage and/or the markup

to the cost of a corresponding class of domestic product so that the two markups will become equivalent.

RECOMMENDATION 35:3

The Liquor Control Board of Ontario purchase Ontario wines at prices no higher than those dictated by market forces. 35:3

Your Committee agrees with this recommendation and with the reasons cited by the Smith Committee. The existing arrangements constitute a hidden form of protection for the industry and should not be continued. If it is the policy to aid the industry, the policy should be implemented by a direct subsidy and not by special purchase and sale arrangements for provincially produced wines. Here again we recommend that these policies be introduced in stages over a five year period. Our amendment reads as follows.

Over a period of five years the Liquor Control Board of Ontario gradually reduce in stages its purchase prices of Ontario wines so that they become no higher than those dictated by market forces.

RECOMMENDATION 35:4

The licence fees at present levied on breweries and wineries be altered so that the revenue will approximate the costs of licensing and inspection. 35:4

We sympathize with the intent of this recommendation but would suggest that the wording be altered.

It is the view of your Committee that wherever an activity must be licensed there is a danger that entry into it may be restricted and monopoly profits thereby generated. The likelihood of this will be reduced if the licences are easily obtained. We therefore subscribe to the idea that licence fees in this case be kept down to those levels that serve to recover issuance costs together with the costs of associated inspection and regulation. The amended recommendation reads as follows.

The licence fees at present levied on breweries and wineries be established at such levels that all costs of licensing and inspection will be fully recovered.

RECOMMENDATION 35:5

The tax on winery store sales be adjusted so that the rate of provincial revenue from sales of domestic wine in winery and Liquor Control Board stores will be equated to the extent possible without the wineries being deprived of a reasonable rate of return from their retailing operations. 35:5

We endorse this recommendation.

RECOMMENDATION 35:6

The gallonage tax on breweries be set at a single rate per gallon for all beer produced and sold in Ontario. 35:6

We can find no justification for the split rate in gallonage tax and therefore we accept this recommendation.

RECOMMENDATION 35:7

The price of beer to home consumers and licensed premises be made uniform. 35:7

We agree with the Smith Committee that to set a lower price for beer purchased by licensed premises is unreasonable. This is particularly true when the price charged for all other alcoholic beverages is uniform, as is the case now in Ontario. We therefore accept this recommendation. For purposes of clarification, however, and because we do not wish to eliminate discounts for volume, we suggest an amendment. In our opinion the existing price differentials in some parts of the Province should be eliminated. This is consistent with existing pricing policies for other alcoholic beverages. The recommendation with our two amendments reads as follows.

The price of beer to home consumers and licensed premises be made uniform throughout the Province, and any discounts applied for quantity be available to all classes of purchaser.

RECOMMENDATION 35:8

The licence charge based on beer consumption be set at a single rate applicable to all types of licensed premises. 35:8

The Smith Committee argued that the different scales of beer gallonage license fees applying to different establishments with the same or different classes of license are arbitrary and unfair. It concluded that the rationale for fee scales which vary with gallonage is based on an incorrect assumption that scale and profits are directly correlated. We concur with the Smith Committee's arguments and support this recommendation.

RECOMMENDATION 35:9

After thorough study by the Liquor Licence Board, liquor licence fees be set on a basis such that in addition to covering all issuing and regulatory costs, they will appropriate to the Province any monopolistic profits that the licensing system has made possible. 35:9

1. While we are once more sympathetic to the intent of the Smith Committee recommendation, our preference is for the widespread issuance of licences as a method of preventing monopoly profits from emerging. We therefore reject Recommendation 35:9 as written.

2. Only if a policy of limiting the number of outlets were pursued in future, thus permitting the generation of monopoly profits, would we favour setting the fees at a level that would be appropriate to the Province a substantial part of these excess profits.

3. We amend the recommendation to read as follows.

After thorough study by the Liquor Licence Board, liquor licence fees be set at the lowest level consistent with the full recovery of all issuance and regulatory costs, in order that the relative ease of acquisition of these licences prevent the emergence of monopoly profits.

RECOMMENDATION 35:10

The financial basis of the agreements whereby municipalities receive payments from the Liquor Licence Board be adjusted so that such payments will reflect as closely as possible the cost to the municipalities of enforcing The Liquor Control Act and The Liquor Licence Act. 35:10

We endorse this recommendation, which would allow the municipalities to recover the police costs which they incur while enforcing The Liquor Control Act. Implementation of other Smith Committee recommendations regarding liquor license fee structure also would require a review of agreements with the municipalities.

RECOMMENDATION 35:11

The transfer fees now in effect for liquor licences be abolished and replaced by a flat fee to yield an amount not exceeding the administrative costs to the Liquor Licence Board of effecting and regulating transfers. 35:11

We suggest that Recommendation 35:11 be rejected. Although the effect of the revised form of Recommendation 35:9 would be to make the licences more readily available, there may be delays in their acquisition. Also, there are types of licences in effect which are no longer issued. In these circumstances, the acquisition of an existing licence confers some benefit, and in such cases we believe the transfer fee should be paid. It should be recognized, however, that if Recommendation 35:9 is implemented in its revised form, the existing scale of fees almost certainly will have to be lowered.

RECOMMENDATION 35:12

*The fee structure now in effect for special occasion permits 35:12
be abolished and replaced by a flat fee that will yield an
amount not exceeding the administrative costs borne by the
Liquor Licence Board in issuing the permits.*

We reject this recommendation and propose that the existing fee structure be maintained. It is the view of your Committee that there is a significant distinction between a function where liquor is served without charge to guests, and one where the liquor is sold. We believe this distinction should be reflected in the fee schedule.

RECOMMENDATION 35:13

*There be instituted specific procedures for transferring to 35:13
the Treasury on a regular basis the surplus cash held by the
Liquor Control Board of Ontario.*

We endorse this recommendation which would permit more efficient handling of the Province's cash. The LCBO tends to hold cash balances in excess of its requirements, which excess should be available to the Treasurer.

RECOMMENDATION 35:14

In accounting for its assets, the Liquor Control Board of Ontario adopt the depreciation methods that normally apply in private business.

Your Committee thinks that this recommendation should be accepted. While the financial procedures utilized by the Liquor Control Board are the same as those used by a number of supervised provincial activities we think there is no reason why the LCBO should continue the practice.

RECOMMENDATION 35:15

The Liquor Control Board of Ontario be directed to institute a program of continuing research into the revenue and other effects of changes in the prices of spirits, wine and beer.

We endorse this recommendation which would improve forecasts of the revenue effects of price changes and thus allow an optimization of the revenue available from the sale of intoxicants.

RECOMMENDATION 35:16

The Government of Ontario, through the Liquor Control Board of Ontario and the Alcoholism and Drug Addiction Research Foundation, seriously study the feasibility of establishing a price structure that would take as its primary basis the alcoholic content of different types of alcoholic beverages.

The Smith Committee's observation that government policy in the area of alcoholic beverages should continue to pursue the dual goal of control and revenue is accepted by your Committee. To this end we endorse this recommendation.

RECOMMENDATION 35:17

*Representations be made to the federal government for 35:17
closer federal-provincial co-ordination of revenue policies
relating to alcoholic beverages.*

The Smith Committee pointed out that the Federal government is the major beneficiary of tax revenues from alcoholic beverages creating the danger that a carefully-formulated pricing policy on the part of the Province could be offset by changes in Federal revenue policy. We therefore endorse this recommendation which would encourage closer co-ordination of Federal and provincial policy.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN CHAPTER 35

DISSENT 1: RECOMMENDATION 35:3

Messrs. Pilkey and Lawlor stated:

1. Though there may be little room in Ontario for protectionism, the grape-growing industry could be one in point.
2. The protectionism as seen by the Smith Committee was presumably to stimulate the Ontario grape-growing industry. Smith outlines this policy both at the point of purchase and at that of mark-up determination.
3. The Smith Committee on Taxation stated "we are in no position to judge the wisdom of government policy designed to stimulate the grape-growing industry in Ontario." In other words, the Committee was in no position to ascertain the impact of their recommendation on the industry.

Therefore, they were in no position to assess the impact on employment.

4. The implementation of this recommendation will, in our opinion, mean the loss of many jobs in this industry at a time when Ontario can ill-afford to add to its present unemployment rolls. The Select Committee should be reminded that the preservation of jobs in Ontario should be one of prime concern.

CHAPTER 36

PROVINCIAL GOVERNMENT ENTERPRISES

1. This chapter dealt with three aspects of provincial government enterprises on which the Smith Committee made recommendations. The three are: the concept of selling hydro-electric power "at cost", the concept of subjecting all government enterprises to corporate income taxes, and the practise of the Province guaranteeing the borrowings of government enterprises in the open market.

2. The Smith Committee was motivated in its approach to this chapter by the philosophy it had expressed early in the Report. When government has chosen to compete with private enterprise it should do so on an equal footing and should not seek or receive any special advantage. For this reason the Smith Committee recommended in Chapter 12 that the Province and the municipalities, and all provincial and municipal agencies pay full grants in lieu of taxes; in Chapter 17 that municipal revenue-producing enterprises pay full property taxes and business taxes; in Chapter 29 that municipalities pay Retail Sales Tax on all purchases of personal property; and in Chapter 30, that municipalities pay full license and permit fees for trolley buses and all commercial vehicles.

3. Your Committee agrees with the Smith Committee on its recommendation respecting the last of the above concepts, but rejects the first, and expresses considerable doubt about the second. The following are the Smith Committee recommendations, with your Committee's comments.

RECOMMENDATION 36:1

The Power Commission Act be amended

36:1

- (a) *to define cost of power so as to be consistent with generally accepted accounting practices, and*
- (b) *to require billing at cost plus a profit margin not exceeding, except with the approval of the Lieutenant Governor in Council, a specified percentage of the cost.*

1. We reject this recommendation and propose that the present method of calculating the cost of power be continued.

We do so for the following reasons. The apparatus for cost calculation is presently in existence and the continuation of the present method permits comparisons of the cost of power over time and between producers. It has provided Hydro with a method of generating funds for expansion and has reduced capital borrowing requirements.

2. It is evident to your Committee, however, that the financial statements of Hydro are not prepared in accordance with generally accepted corporate accounting practices, and that the statements cannot be readily comprehended by the ordinary businessman. We recommend that Hydro, and all other provincial and municipal business enterprises, be required to provide a conventional business statement in addition to their present financial statements. This new statement would correspond to conventional corporate balance sheet, and profit and loss statements compatible with generally accepted accounting principles and practices adhered to by the business community.

RECOMMENDATION 36:2

Government-owned business enterprises be subject to income taxes under the Ontario Corporations Tax Act. 36:2

1. We make no recommendation on this proposal, and ask that the government form a task force to further study the implications of it.

2. The principle that government enterprises should be liable for the same taxes as a private enterprise is a cardinal principle in the philosophy proposed by the Smith Committee and one with which we are in general agreement. We recommend, however, that a decision be deferred on this particular recommendation until the conventional financial statements recommended above are available for government revenue enterprises. At that time a study should be made to determine the possible advantages to be gained from subjecting government-owned business enterprises to income tax.

The Province consider discontinuing its practice of guaranteeing the securities issued by those public enterprises whose offerings can be sold readily in the open market on acceptable terms. 36:3

1. We endorse this recommendation. Its implementation, however, should be undertaken carefully over the next two years in consultation with the representatives of principal lending institutions. The projected requirements of borrowed capital by the Province and the Ontario Hydro are considered together by such financial institutions. The total of funds required to date has had an effect on the Province's credit, particularly in the past year when the projections in the Smith Committee's report have proved to be below actual experience.
2. Ontario Hydro enjoys the reputation of being a sound and efficient utility. By the careful development of a borrowing instrument, we believe it will be able to borrow at an interest rate very close to that of the Province without encumbering the Province's credit.
3. The elimination of the burden of this guarantee would enhance the credit standing of the Province and would permit the Province to utilize its credit for other purposes.

CHAPTER 37

OTHER NON-TAX REVENUES

1. This chapter dealt with a number of items, each relatively small in itself, but which yield a considerable amount of revenue to the Treasury in total. These revenue items involve almost all departments of government. They fall into four main categories: service licence and permit fees; sales and rentals; fines and forfeitures; and miscellaneous.

2. In the case of licences and permits, the Smith Committee was interested in applying the same broad principles as those developed in Chapter 17 when dealing with local non-tax revenues. Our remarks in that chapter apply here. Briefly, the Smith Committee asserted that the main criterion for licence and permit fees should be the recovery of all direct and indirect costs relating to the process of issuing a licence or permit. Your Committee concluded, however, that licences and fees could be used to raise revenue in some circumstances. We do agree with the Smith Committee that in many cases social policy may dictate that fees be greater than is necessary to recover costs. We suggest that the Province not deviate from a cost recovery approach to fee schedules without a deliberate decision.

3. The Smith Committee pointed out that the burden of cost of the great diversity of licences and permits varied widely but that the fees paid by any one individual are usually too small to have a serious economic effect. Because administrative costs vary over time, the Smith Committee suggested that the schedule of fees should be reviewed periodically to bring it into line with costs. We agree. To ensure that such a review be made, the Smith Committee recommended that this provision be incorporated in a statute.

4. Provincial government sales and rentals can be classified in two categories: those which are continuing operations of a commercial nature and those which are non-repetitive. Examples of the first include the operation of souvenir shops and the leasing of Department of Highways property to restaurants and service stations. The second category includes the sale or rental of surplus assets. We agree with the broad principles which the Smith Committee applied to these operations. Where there are similar privately-operated businesses, the Province should

price its services at the same level as private business in order to maximize revenue and to prevent unfair competition. Where the Province operates a monopoly, prices should usually be on a cost recovery basis. In the case of non-repetitive sales or rentals, the object should be maximization of revenue and pricing should be by auction or tender.

5. Fines and forfeitures form a minor part of non-tax revenues. We agree with the Smith Committee that in no circumstances should the government depend on these as a revenue instrument for general or specific purposes. Fines are to be used exclusively as a penalty for transgressions. The size of fines should be reviewed periodically and should be established in the light of its effectiveness as a deterrent.

6. In this chapter, the Smith Committee made only one specific recommendation which we deal with as follows.

RECOMMENDATION 37:1

The Financial Administration Act be amended to require that there be tabled in the Legislature a quinquennial review explaining the nature and level of all fees charged by the government. 37:1

Your Committee is in agreement with this recommendation. We think that such review should be tabled once per Parliament. We amend the recommendation accordingly.

The Financial Administration Act be amended to require that there be tabled in the Legislature every Parliament a review explaining the nature and level of all fees charged by the government.

CHAPTER 38

FINANCING HOSPITAL AND MEDICAL CARE

1. In presenting recommendations for rationalizing the existing system of health grants, this chapter discussed the case for full provincial responsibility for all medical service programs in return for further Federal abatement of personal income tax. Such an offer was made by the Federal government during Federal-Provincial negotiations in October, 1966, at which time all the provinces rejected the proposal. We join the Smith Committee in recommending that this decision be reconsidered.

2. The Smith Committee argued that with the buoyant tax base of the Personal Income Tax, Ontario would be in a position to develop its own broadly-based health services program, unfettered by Federal conditions and constraints. Full provincial responsibility would allow a better integrated and more rational overall health program.

3. At the present time the two major sources of funds for health services are Federal and provincial grants. Federal construction grants are based on a per-bed allotment as well as an overall ceiling related to population. The per-bed formula is inflexible and does not recognize mounting construction costs. The per capita ceiling fails to take into account the differences in construction costs from one province to another. If the Smith Committee's recommendation were not enacted by the Legislature, the next best course of action would be to renegotiate these grants on the basis of a percentage of total approved-cost with no ceiling. It is further recommended that the Province calculate its grants on the same basis.

4. We endorse the Smith Committee's recommendation that provincial grants should be made for all aspects of hospital cost including administration, servicing, alterations and repairs. In the event that the Province cannot negotiate satisfactory Federal tax abatements and does not assume full costs, we support the Smith Committee's recommendation that the provincial government attempt to change the Federal government's present operating grant to a percentage of actual costs.

5. The Smith Committee made two general recommendations,

Financing Hospital and Medical Care
Recommendation 38:1

which we support, concerning the operations of the Workmen's Compensation Board. First, the restrictions placed on the Board's investment portfolio should be modernized to allow it to purchase high-grade securities other than government-issued or -guaranteed bonds. Secondly, in keeping with the spirit of recommendations made in Chapter 25 (Provincial Revenue Legislation: Administration and Appeal), there is need for an independent appeal tribunal outside the Board to adjudicate disputes concerning rate classifications assigned to an employer.

6. We support the Smith Committee's assertion that the Province's medical and hospitalization schemes are designed to provide a service at moderate cost for those who can afford to pay for a portion of this service and to meet the broader objectives of providing health services for all citizens regardless of their financial means. We recognize the need for wide medical coverage because of the economic return from this type of investment and for humanitarian reasons. In view of the regressivity of the existing premium schedule of the Ontario Hospital Services Commission we fully support the Smith Committee's recommendations for overcoming this inequity.

7. The ten specific recommendations made by the Smith Committee are listed below, each followed by our remarks.

RECOMMENDATION 38:1

*Ontario negotiate the withdrawal of the federal government 38:1
hospital construction grant program for Ontario hospitals
in return for further tax room or abatement sufficient for
Ontario to assume the responsibility on an adequate basis.*

We endorse this recommendation which would place the Province in a better position to develop its own broadly-based health services. The present arrangement of Federal grants is inadequate for the reasons given above. The tax abatement scheme would relate revenues to a growing economy so that resources would expand to meet increasing expenditures.

RECOMMENDATION 38:2

Ontario hospital construction grants be changed from a per-bed basis to a percentage-of-approved-construction-cost basis. 38:2

We endorse this recommendation which would remove the inflexibility of the present system of grants which are on a per-bed basis. Grants would be on a percentage basis presumably with Ministerial approval, thus relating grants to approved costs.

RECOMMENDATION 38:3

Ontario hospital construction grants be broadened to cover the costs of constructing the portions of the hospital to be used for administration and servicing. 38:3

It is our opinion that administrative and service facilities are as essential to a hospital as the direct medical facilities and therefore we endorse this recommendation.

RECOMMENDATION 38:4

The Ontario Hospital Services Commission allow hospitals to include in reimbursable operating costs an annual amount sufficient to amortize over a reasonable period the cost of renovations, alterations or other major repairs that are not recovered through major renovation grants and that would result in commensurate operational savings. 38:4

We endorse this recommendation which would correct a defect in the present regulations. At present, there are grants for "major" renovations and for "minor" repairs, but not for those renovations that fall between these categories.

RECOMMENDATION 38:5

Upon implementation of the two preceding recommendations, Ontario discontinue construction grants for special rehabilitation facilities and tuberculosis sanatoria. 38:5

We endorse this recommendation which would discontinue two types of grant which Recommendations 38:3 and 38:4 would supersede.

RECOMMENDATION 38:6

Ontario negotiate the withdrawal of the federal government hospital operating grant programs for Ontario hospitals in return for tax room or abatement sufficient for Ontario to assume the responsibility on an adequate basis. 38:6

We endorse this recommendation which would apply the principle of Recommendation 38:1 to the area of operating grants.

RECOMMENDATION 38:7

Ontario negotiate the withdrawal of the federal health grants program in Ontario in return for tax room or abatement sufficient for Ontario to assume the responsibility on an adequate basis. 38:7

We endorse this recommendation which flows from the earlier recommendations.

RECOMMENDATION 38:8

Premium rates for the Hospital Care Insurance Plan be maintained at a level to yield roughly one-third of the total financial resources required to meet operating costs. 38:8

We accept this recommendation provided Recommendation 38:10 is implemented. Assigning a portion of total costs to premium payers is a frequent reminder of actual costs of hospital services and may serve to control costs of operations in a way that would not be the case otherwise.

RECOMMENDATION 38:9

Consideration be given to replacing the present two-tier premium structure of the Ontario Hospital Care Insurance Plan with a three-tier structure comparable to that of the Ontario Medical Services Insurance Plan. 38:9

We endorse this recommendation which would relate premium costs of the Hospital Care Insurance Plan more directly to the benefits received.

RECOMMENDATION 38:10

When future changes in premium levels become necessary, consideration be given to incorporating into the Hospital Care Insurance Plan a scheme of subsidized premiums comparable to that in the Ontario Medical Services Insurance Plan. 38:10

We are in agreement with the general principle espoused in this recommendation. We think that the recommendation should not be qualified, however, and we

believe it is undesirable to wait for a premium rate increase or further consideration to act on the principle. We therefore recommend changing the recommendation to read.

A scheme of subsidized premiums comparable to that in the Ontario Medical Services Insurance Plan be incorporated into the Hospital Care Insurance Plan.

DISSENTING OPINIONS REGARDING RECOMMENDATIONS IN CHAPTER 38

DISSENT 1: RECOMMENDATIONS 38:1, 38:6, 38:7

Messrs. Pilkey and Lawlor stated:

1. That in the interests of national unity, we must avoid policies which benefit the "have" provinces at the expense of the "have-nots".
2. For this reason, we cannot go along with the Recommendation that tax room be substituted for Federal conditional grants unless a stipulation is included that adequate equalization is provided with the tax room.
3. Under the present system of equalized tax abatements, all provinces' revenues are raised only to the national average rather than to the level of the top two provinces as was done prior to 1967. We consider this type of equalization inadequate, and implementing this recommendation on this basis will increase regional disparities in this country.
4. We also have doubts about the advisability of substituting tax room for conditional grants on the ground that it may bring us too quickly to the critical point at which the Federal government loses control of the income tax for fiscal policy purposes and leaves little or no room for further Federal tax abatements of an "unencumbered" or unconditional nature.

DISSENT 2: RECOMMENDATION 38:8

Messrs. Pilkey and Lawlor stated:

1. Since the drastic 69% increase in hospital insurance premiums this year, the premium payer is now carrying far more than one-third of the cost of hospitalization in Ontario. He always was if we reject the specious calculations of the government and exclude tuberculosis and mental hospital payments which are not recognized by the Federal government as part of the Hospitalization Plan and which were largely being paid by the provincial government before the Plan was inaugurated.

2. We strongly oppose the concept that premiums should cover one-third of Hospital Plan costs, however calculated. We favour some premiums to give people a sense of participation in the financing of hospitalization and a feeling that the service comes to them as a right for which they have paid. However, since premiums are a very regressive form of taxation (as the Smith Committee admits on p.451, Vol. III), we feel that they should be kept to a very nominal figure. Particularly in a province which does not make hospital insurance compulsory, the premiums should not be an incentive to opt out.

3. The adoption of subsidization for hospital insurance premiums along the lines of Recommendation 38:10 will help the lowest income groups but it is the family just above the subsidy level which finds this form of regressive taxation hard to bear. An \$11 per month premium takes 2.6% of a \$5000 family's income but less than 1% of a \$15,000 family's income. The present OMSIP subsidy cuts off at \$4000 for a family of four, so that a family making \$4001 is faced with a premium of \$177 per year.

4. Consequently we recommend that hospital insurance premiums, because they are such a regressive form of taxation, be kept to not more than \$5 per month per family (with lower rates for single persons and couples), and that the balance of hospitalization costs be financed by more progressive forms of provincial taxation.

DISSENT 3: RECOMMENDATION 38:10

Messrs. Trotter, Breithaupt and Deacon stated:

1. We dissent with the burden of the argument advanced by the Smith Committee in amplification of this recommendation (Vol. III, pages 452-3). Hospital Care Insurance Plan payments were \$3.25 a month for the single person and \$6.50 a month for the family prior to July 1st, 1968, on which date they leapt up to nearly double at \$5.50 per month for the single person and \$11.00 a month for the family. Under the Smith "one-third by premium" formula, they would continue to rise. This represents a regressive imposition of the worst kind.

2. If we are going to assist the lower income brackets of our population, we should wipe out the premium method entirely and obtain funds for the Ontario Hospital Care Insurance Plan by a direct tax method. We believe this is by far the best way in which to finance our hospital scheme. It would in essence be financed the same way as the Canada Pension Plan is financed and a further advantage of this payment method would be that the taxpayer would be made clearly aware of the costs of health care. Just as we set out in our Income Tax Returns our Canada Pension Plan premiums, we would in the same way pay for our hospital costs. If an individual had an income low enough that he or she was not taxable, then there would be no hospital premiums to pay. If an individual had a high income, then he or she would pay a greater proportion of the costs subject, of course, to a maximum amount, just as the Canada Pension Plan costs are subject to a maximum amount.

3. At the earliest date, the Ontario Hospital Care Insurance Plan and the Ontario Medical Insurance Plan should be integrated and administered by one body, at which time the above proposal would apply to both health and hospitalization costs. The creation of H.I.R.B. (The Hospital Insurance Registration Board) as a third administrative body makes bureaucratic nonsense, unless it is the first stage of integration, in which case there ought to be a timetable to this end. Its existence, otherwise, is a continual reminder that there is plenty of room for government housecleaning before we talk about tax increases.

4. Our goal, of course, is to see Ontario enter a full National Medicare scheme at the earliest possible date. Nothing less will satisfy the demands of social justice and equity in the field of health care. In the June, 1968 issue of the Canadian Tax Journal, support for this thesis comes from David B. Perry, who writes:

"Whatever the effects on the taxation system, the net effect on the taxpayer would not be alarming. Much of the expenditure under the medicare scheme represents, not new expenditure, but a shift from the private sector to the public. As people previously unable to afford proper medical attention begin to receive this attention on an insured basis, there will probably be a net increase in expenditures in this category, but the actual amount is difficult to establish. Estimates of the Federal Department of National Health and Welfare would indicate that only about 10% of the estimated medicare costs represent 'new' expenditures. Thus, about 90% of the medicare costs borne by the taxpayer would represent only a shift from the private to the public sector."

5. In our view, Medicare is possible for Ontario and makes a legitimate call upon the public purse.

CHAPTER 40

PROVINCIAL DEBT POLICY TO 1975

1. In this chapter, the Smith Committee directed its attention to the various policy matters arising from their projections of provincial revenues and expenditures to 1975. On the assumption that present taxation and expenditure programs remain substantially unchanged, the Smith Committee's projections indicated that large-scale borrowing will be necessary to close the growing gap between revenue and expenditure. Some idea of the required increase may be gained from the fact that the ratio of the combined provincial and local debt to provincial domestic product would increase from the present level of approximately 18 per cent to 34 per cent. It is obvious from these figures that provincial debt policy will have an importance of the first order.
2. When the Province's prospective economic growth is considered, the Smith Committee concluded that some expansion of debt could be undertaken as one means of financing the increased expenditures. It was the Smith Committee's view that this expansion should be greater for the Province than for the municipalities. For the latter, they suggest that the present 9 per cent ratio of local net debt to provincial domestic product should not be allowed to increase in the forecast period. Your Committee fully concurs with this view. It should be noted that maintaining the present ratio of net debt to provincial domestic product would not prevent some absolute expansion of municipal debt; on the contrary, with an expanding economy, the growth of the provincial domestic product would permit the dollar amount of municipal debt to grow at approximately 6 per cent per annum.
3. It is the opinion of the Smith Committee that it is entirely acceptable that provincial debt grow somewhat more rapidly than provincial domestic product, and that the debt ratio therefore rise. It was therefore recommended as follows.

RECOMMENDATION 40:1

As a partial solution to its projected annual expenditure-revenue gaps, the Province permit a modest expansion of its net debt at a rate at least equal to the growth in provincial domestic product. 40:1

Your Committee concurs with this recommendation. Since the Province's taxable capacity, and therefore its debt servicing capacity, will grow more rapidly than its domestic product, it is entirely appropriate that the net debt grow at a rate at least equal to that of provincial domestic product.

RECOMMENDATION 40:2

In any given period, provincial policies concerning appropriate levels and composition of taxation and expenditures be consciously directed towards the objective of moderating cyclical fluctuations within the Ontario economy. 40:2

1. We concur with this recommendation. While the long-term trend of provincial net debt will be upward, it is appropriate that the trend be altered whenever this is desirable in the pursuit of appropriate short-term counter-cyclical policies. Recommendation 40:2 is therefore acceptable. We note, as did the Smith Committee, that its effective implementation would require a high degree of co-ordination between Federal and provincial economic policies.

2. Your Committee concluded that the credit of the Province must be maintained intact and that increased taxation revenues must be fully utilized in preference to over expansion of the Province's debt.

APPENDIX A

INDIVIDUALS & ORGANIZATIONS WHO APPEARED BEFORE THE SELECT COMMITTEE

Association of Mayors & Reeves
Association of Mining Municipalities
of Northern Ontario
Association of Ontario Counties
Atikokan, Corporation of the Township
of
Automotive Parts Manufacturers
Association
Automotive Transport Association

Baker, Eric W.
Beaton, J.W.
The Bell Telephone Company
Bowling Proprietors' Association
Burkholder, George

Canadian Book Publishers' Council
Canadian Manufacturers' Association
Canadian Property Tax Agents
Association
Canadian Wholesale Council
Carruthers, Frederic H.
Communist Party of Canada
Communist Party of Canada, London
District
Communist Party of Canada, Windsor
District
Consumers' Gas Company

Dominion Foundries & Steel Ltd.

Eastern Ontario Regional Library
System & The Ottawa Public Library
East York, Borough of
Economic Council: Lake Erie Region
Edwards, W.A.
Educational Reference Book
Publishers' Association
Equitable Income Tax Foundation

Ferris, Terry
Fisher, John
Fyfe, Stewart (Professor)

Goodwin, H.T.
Great Lakes Power Corporation
Ltd.
Guelph, City of

Hagarty, Wm. B.
Hamilton, Corporation of the
City of
Hamilton Barbers & Hair-
stylists Association
Hastings, County of
Huron County Council
Hydro-Electric Power
Commission of Ontario

Independent Secondary
Schools of Ontario
Institute of Municipal
Assessors
Inter-Church Committee on
Legal Affairs
Inter-Church Committee on
Protestant-Roman Catholic
Relations
International Nickel Company
Investment Dealers Association
Ip, Anthony

Kingston, Mayor's Committee on
Municipal Taxation

Lake Erie Regional Library
System
London, Special Committee on
Tax Exemption

Maidstone, Township of
Marmora
The McLaughlin Group
Metropolitan Toronto Tax Reform
Council

Northern M.P.P.'s of the New
Democratic Party
Northwestern Ontario Timber
Operators Association

Oak-Vaughan Ratepayers'
Association

O'Donohue, Anthony

Ontario Alliance of Christian
Schools

Ontario Chamber of Commerce

Ontario Clubs of Canadian Federation
of University Women

Ontario Federation of Agriculture

Ontario Flue-Cured Tobacco Growers
Marketing Board

Ontario Forest Industries Association

Ontario Fruit & Vegetable Growers
Association

Ontario Hotel & Motel Association

Ontario Library Association

Ontario Lumber Manufacturers
Association

Ontario Mining Association

Ontario Municipal Electric Associa-
tion

Ontario Poultry Council

Ontario Soft Drink Association

Ontario Veterinary Association

Oshawa, City of

Oxford Federation of Agriculture

Pelletier, Mr.

Pentecostal Assemblies of Canada

Pickering Township

Pulver, Leonard

Retail Council of Canada

Riches, H.F.

Sabia, Laura (Mrs.)

Sarnia, City of

Sault Ste. Marie, Corporation
of the City of

Scarborough & Associated
Township Farmers

Scarborough, Board of
Education

Scarborough, Corporation of
the Borough of

Scarborough, Council of
Ratepayers' Associations

Scotch Whiskey Association

Sheridan Geophysics

Simcoe, Municipality of the
Town of

Sopha, Elmer W.

St. Catharines, Corporation
of the City of

St. Catharines & District

Chamber of Commerce

Steel Company of Canada

Sudbury, City of

Sudbury & District Municipal
Association

Swart, M.L.

Thorold, Township of

Toronto, Corporation of the
City of

Toronto Humanist Association

Toronto, Municipality of
Metropolitan

Toronto Parking Authority

Toronto Parking Operators'
Association

Toronto Stock Exchange

Town of Timmins, Townships
of Tisdale & Tech

Van de Vrie, Q.

Vaughan Township

Victoria County Council

York County

York County Federation of
Agriculture

APPENDIX B

INDIVIDUALS AND ORGANIZATIONS WHO MADE WRITTEN SUBMISSIONS ONLY TO THE SELECT COMMITTEE

- *Adelaide, Township of Middlesex County
- *Alberton, Township of, Fort Frances
- *Albion Property Owners' Association Algoma Steel
- *Algonquin Regional Library
- *Amherstburg, Town of
- *Anderson Funeral Service
- *Arnprior Public Library
- *Arthur Public Library
- Association of Canadian Distillers
- *Association of County Engineers
- *Athol, Township of
- *Ausable River Conservation Authority
- *Ballantyne, R.
- *Balmertown, The Corporation of the Improvement of District of
- *Barnett, A.C.
- *Barrie Public Library
- *Beach, M.F.
- *Bethel Bible Church, Seaforth
- *Blais Supermarket Ltd.
Blanchard, Thomas R.
Blezard, Township of
- *Bloor Street United Church
- *Blue and Worthington, Townships of Sleeman
Board of Education of City of Hamilton
- *Board of Trade of Metro Toronto
- *Bow Valley Leasing Company
Brantford & District Barbers' Association Local 2008
- *British American Oil Co. Ltd.
- *British Government Office
- *Brown, T.M.
- *Bruce County Council
- *Bruck, O.E.
- *Buie, D.R.
- *Bureau National du Cognac
- *Caland Ore Co. Ltd.
- *Canadian Association of Purchasing Agents,
Ontario Municipal Purchasers' Chapter
- *Canadian Bankers' Association
- *Canadian Bar Association
Canadian Farm & Industrial Equipment Inst.
Canadian Federation of University Women
- *Canadian Jewellery Travellers' Association of Canada
- *Canadian Life Insurance Association
- *Canadian National Railways
- *Canadian Pacific Railways
- *Canadian Wine Institute
- *Cassels, H.
- *Central United Church
- *Christ Memorial Church
- *Cheltenham United Farmers' Club, Cheltenham
- *Clark, D.H.
- *Clayton, Dr. Frank A.
- *Cochenour Willans Gold Mines Ltd.
- *Coleman, Corporation of the Township of
- *Commercial Travellers' Association of Canada
Compressed Gas Association Inc.
- *County & District Assessors' Association
- *Demers, G.

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- *Dilke Municipality of
Dooley, D.J.
- *Drayton Public library
- *Dresden, Corporation of Township
of
- *Dry Cleaners and Launderers Inst.
- *Dryden, Corporation of the Town of
- *Dunsmore, Mr. & Mrs. J.A.
- *Emo Chamber of Commerce
- *East Whitby Township
- *Essex, Corporation of the County of
- *Exeter, P.U.C.
Essex, County of
- *Falconbridge, The Corporation of
the Township of
- *Falconbridge Nickel Mines
- *Faraday, Township of
- *Fort Frances Chamber of Commerce
- *Fort Frances, The Town of
- *Fort William, The Corporation of the
City of
- *Ganaraska Region Conservation
Authority
- *Gas & Petroleum Association of
Ontario
General Hardward Ltd.
Woodstock Lamp Co. Ltd. &
Elgin Parkes Wholesale Ltd.
- *Georgian Bay Regional Library System
- *Geraldton, the Town of
- *Goderich Elevator & Transit Co. Ltd.
- *Goodwin, W.
- *Halton, County of
Halton County Federation of
Agriculture
Hamilton Board of Education
Hart, Wm.
- *Hastings, Roads and Bridge Committee
of the County of
- *Houlding, H.
Hunter, Miss Carrie
- *Imperial Oil Ltd.
Incorporated Synod of the
Diocese of Toronto
- *Keewatin Corporation, of
the Town of
- *Kenora & District Chamber of
Commerce
- *Kenora, The Town of
- *Kimberly-Clark Pulp & Paper
Co.
- *Knox Presbyterian Church of
Milton, Ontario
- *Lake Ontario Regional
Library System
- *Lambton, County of
- *L'Association des Commissions
des Ecoles Bilingues
d'Ontario
- *La Vallee, Municipality of
LeLoup, R.H.
- *Life Underwriters' Association
of Canada
Longmans Canada Ltd.
- *London Public Library Board

MacRae, Alex E.
McClearly, Mrs. E.
- *Magazine Advertising Bureau
of Canada
- *Mattawa Public Library
- *Mayfield Landowners Group
- *Metro Barbers-Hairstylists
Association Inc. (Toronto)
- *Middlesex County
- *Midwestern Regional Library
System
- *Mississauga Industrial
Association, Cooksville
Motor Vehicle Manufacturers
Association
- *Norfolk County Council,
Special Committee of

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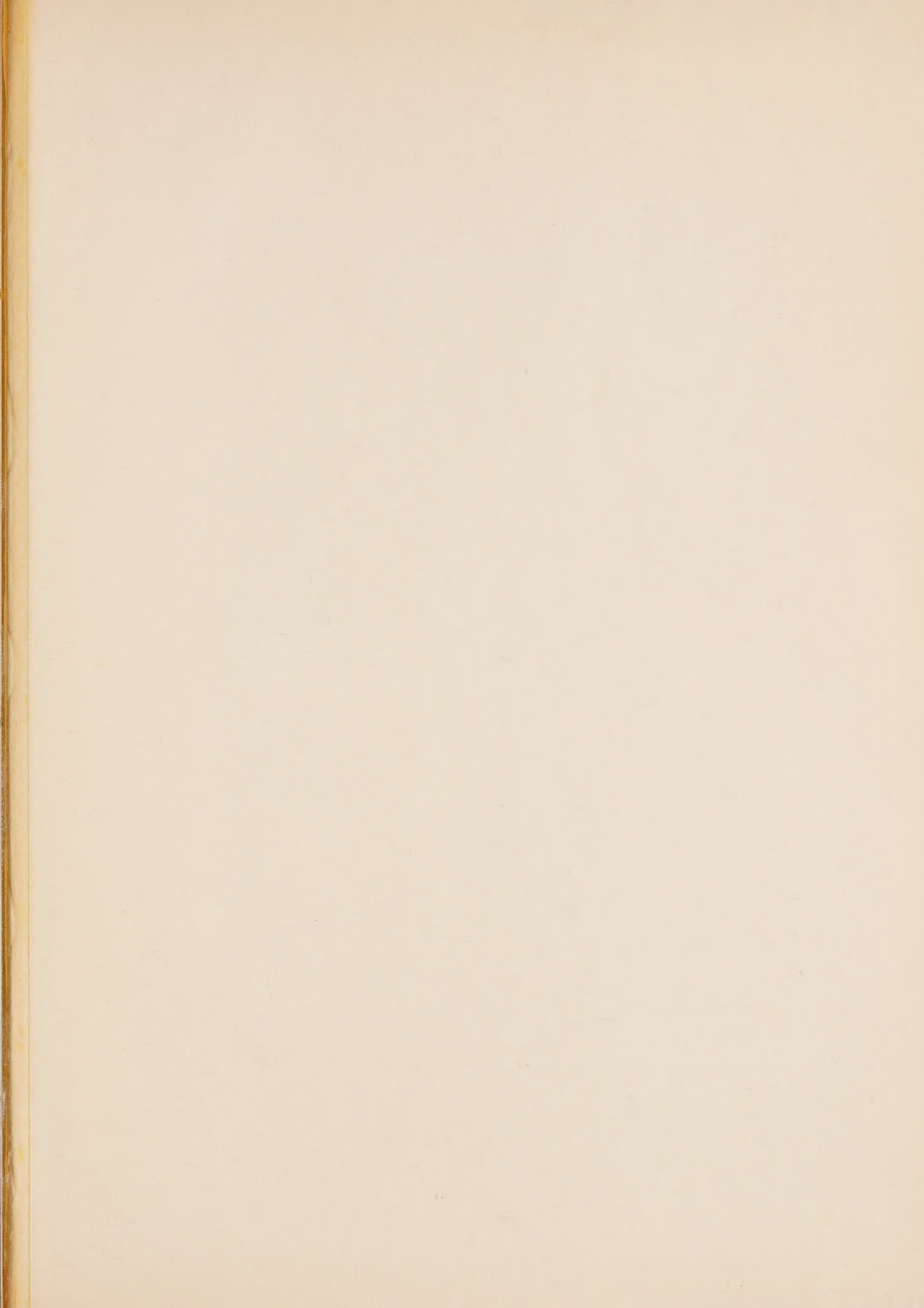
- *Northeastern Regional Library System
- *Northwestern Ontario Development Council
- *Northwestern Regional Library System
- Oakville Public Library
- Oliver, The Corporation of the Township of
- *Ontario Association of Real Estate Boards
- *Ontario Barbers' Association Inc. (Kitchener)
- *Ontario Barbers' Association Inc. (Sarnia)
- *Ontario Barbers' Association Inc. (Toronto)
- *Ontario Brewers' Institute
- *Ontario Council of Barbers Associations
- Ontario Federation of Labour
- *Ontario Flying Farmers
- *Ontario Fresh Winter Rhubarb Growers
- *Ontario Grape Growers Marketing Board
- *Ontario Goods Roads Association
- *Ontario Motor League
- *Ontario Petroleum Institute
- *Ontario School Trustees Council
- *Ontario Retail Lumber Dealers' Association
- *Ontario Separate School Trustees Association
- *Ontario Steel Products Company Ltd.
- Ontario Travel Association, Joint Board of
- *Orange Lodge
- *Orangeville, "Corporation of the Town of
- *Oshawa District Council Boy Scouts of Canada
- *Ottawa, Corporation of the City of
- *Ottawa Parking Operators' Association
- *Parry Sound, The Corporation of
- Periodic Press Association
- *Petroleum Association of
- *Petrolia, Wyoming Barbers' Association
- *Perth, County of
- *Point Edward, Village of
- *Port Arthur, Corporation of the City of
- *Port Carling Public Library
- *Port Colborne, Corporation of
- *Preston Public Library Board
- *Prince Edward, The Corporation of
- Public School Trustees Association
- *Rainy River, the Municipal Union of the District of
- *Rainy River, Town of
- *Red Lake, the Corporation of the Township of
- *Regional Library Systems Committee
- *Romanson, P.
- *Roppel, H.
- *Royal Danish Consulate in Toronto
- *Rupert, K.
- John B. Sampson
- *Sarnia, Hydro-Electric Commission of the City of
- *Saunders, L.H.
- *Scarborough Public Library Board
- J.M. Schneider Ltd.
- *Select Committee for Regional Control of Air Pollution in South-Western Ontario
- *Shell Canada Ltd.
- *Sheridan Park Association
- *Smith, G.E.
- *Sorgenfrei, H.
- *South Central Regional Library Co-operative
- *Southwestern Regional Library Co-operative
- *Stephen, Township of

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Students' Administrative Council,
University of Toronto

- *Sturgeon Falls Public Library
- *Sudbury & District Chamber of Commerce
- *Sudbury Public Library
- *Sundridge, The Municipality of the
Village of
- *Supertest Petroleum Corporation Ltd.
Swart, M.L.
- *Texaco Canada Ltd.
- *Texas Gulf Sulphur Co.
- *Toronto, Board of Education
- *Toronto, Ward 5 Residents Association
- *Toronto, Ward 6 Residents Association
- *Trans Canada Pipe Line
- *Trust Companies' Association of Canada
- *Tweed, Municipal Corporation of the
Village of
- *United Electrical, Radio & Machine
Workers of America
- *United Church of Canada
- *United Steelworkers of America (CLC)
- *Urban Development Institute (Ontario
Division)
- *Walker, R.R.
- *Walkover, W.A. Sr.
- *Waterloo, City of
- *Welland, City of
- *Welland, The Municipal Corporation of
the City of
- *Wentworth, County of
- *White, J.

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